FRENCH CLAIMS.

APPEAL OF THE BARON DE BODE

TO THE HONOURABLE

MEMBERS OF THE HOUSE OF COMMONS,

ON THE MOTION TO BE MADE BY MR. O'CONNELL ON THE 23d JUNE, 1836,

FOR THE RE-APPOINTMENT OF A SELECT COMMITTEE TO COMPLETE THE EXAMINATION OF HIS CLAIM;

SHEWING

That his case has not been regularly gone through.

The total nullity of the Award of the Commissioners.

The discrepancy between the judgment of the Privy Council on the Appeal, with that of the Commissioners in their Award.

The statements made by the late Lord Gifford in delivering the Judgment of the Privy Council upon the Petition for the re-hearing of the Appeal.

The misappropriation by the Treasury, of the Funds paid by France under the Conventions of 1815 and 1818.

The systematic persecution the Baron de Bode has had to contend against.

That the claim of the Baron de Bode is a proper case for the consideration and interference of the House of Commons, and that it would be an unparalleled injustice and hardship to refuse the re-appointment of a Committee to complete the examination of it.

AND CONTAINING A

SHORT OUTLINE OF THE BARON'S CASE.

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APPEAL OF THE BARON DE BODE, TO THE HONOURABLE MEMBERS OF THE HOUSE OF COMMONS.

The motion for the re-appointment of a Select Committee of the House of Commons to complete the examination of my case* being fixed for the 23d of this month, I find myself under the painful necessity, in consequence of the most cruel and systematic opposition and persecution, to appeal in a more public manner than I have hitherto done to the representatives of the nation, that they may not again be misled by statements bearing apparently the sanction of high authority, but neither founded in justice nor sustained by evidence. I also adopt this more public mode of addressing Honourable Members, because, I know to my cost, that for various reasons, not ten out of 658 have time to read statements sent to them with their parliamentary papers.

To whom can a British subject oppressed by superior power, and contending against the influence of Government, fly for protection and redress, the courts of justice being closed against him, but to the representatives of his country? I have faced death, not only in the field, but in many other aggravated shapes,—I can submit to death, in want and misery; yet before I die, I do claim in a country like ours, an act of justice at the hands of the representatives of the people.

I do not ask Honourable Members to *decide* my case in my favour; by no means; I only ask for the re-appointment of that committee which has already been conceded, and which had nearly concluded the investigation with which it was charged. It will then be seen — it can only then be seen, whether my claims are, or are not, founded in justice.

I beg most humbly to impress on the minds of Honourable Members, that my case is not a *party* question, and that it ought not to be allowed to be made A GOVERNMENT QUESTION. On every occasion

* For an outline of the case, see *post*, page

but one, when my case has been brought before the attention of the House of Commons, THE TREASURY MADE IT A GOVERNMENT QUESTION. Treasury circulars, and of which I have had several in my possession, have been sent to the members who usually vote with Government, requesting their attendance, *as a division was expected on the motion to be made for granting a Select Committee on the case of the Baron de Bode.* Other resources at the command of a powerful Government, have been resorted to. The exception above alluded to, was under Earl Grey's administration; the question was, on the 1st of May, 1834, left an open one—the general feeling of the members of the cabinet, with few exceptions, appears to have been to let the case take its course; and the result was, that a Select Committee was granted by ACCLAMATION, by a House as well as could be ascertained, of about 170 members. On that day, May 1st, 1834, Mr. Lyttleton (now Lord Hatherton), spoke most strongly in favour of the granting of the Committee, and other cabinet ministers were in attendance to vote also for it, had it come to a division. The only opposition in the House of Commons was from the then Chancellor of the Exchequer (Lord Althorp), and the Solicitor General, *speaking from a Treasury brief.* It is well known that opposition made in the House by the law officers of the crown in cases in which the Treasury is supposed to be interested, is made by them officially from the instructions or commands which are prepared in Downing Street. Out of the House, the great opposition I had to contend against, was that of Mr. Spring Rice, the then Secretary of the Treasury, a branch of the public service which (with reference to the past) is not uninterested in resisting disclosures, and in obstructing the progress of inquiry.

By many perhaps I shall be blamed for speaking so freely; but be it remembered that I feel myself an injured man, suffering and struggling for a series of years against oppression, and deprived by what I deem abuse of power, of my property. I have nothing to expect from the goodwill, or, I fear, from the justice of a Chancellor of the Exchequer who has declared that he will resist any attempt of mine to have my case investigated,—who has declared my case an abominable case—that it must be put down—and that it shall be put down;—who, as I can distinctly prove, has suffered, if not directed, the sealed file of documents in my case, kept in the archives of the late Commission for French claims, to be cut asunder, the seals to be torn off, and three important documents in my case to be abstracted from such file, by a party interested in suppressing those documents—which documents were received by him, and in respect of which, the Committee had four times ordered those three documents to be produced, he at last sent an answer that they could not be found.

Mr. Spring Rice says, that I have no claim; now the late Sir Samuel Romilly, the late Sir James Mackintosh, Lord Brougham, the Vice Chancellor, Sir Launcelot Shadwell, Mr. Serjeant Wilde, Mr. Fonblanque, K. C., Mr. Lockhart, late M. P. for Oxford, Mr. Ralph

Carr, Mr. Manning, Mr. Langslow, the Attorney General at Malta, and many more in England; as also in France, from Paris, Mr. Macquin, Mr. de la Grange, Mr. Gachon, Mr. Desprez; — and from Strasburg, the four first advocates there, who have been consulted on different points of the case, and some of them given written opinions thereon,—besides the recorded strong opinions declared on the merits of the case in the House of Commons by Dr. Phillimore —Sir Frederick Pollock—and Mr. M. D. Hill, K. C. —as also Lord Stanley and Lord Hatherton, who, though not lawyers, have looked minutely into the merits of the case,—have expressed opinions favourable to my claim, the general result of these opinions being that I am entitled to be indemnified for the loss of my property in France, out of the fund paid by the French Government to the British Government, under the Conventions of 1815 and 1818, for that purpose, although my case has miscarried before the British Commissioners, and on the appeal; that the real merits of the case have never been decided upon or considered; and that I have been most unfairly and cruelly treated by the Government.—The opinions of such men appear to be at least of as much weight as that of Mr. Spring Rice.—Under what authority is his opinion to be so decisive on my case, as to preclude the necessity of completing the investigation of it so far advanced in the late Committee? —Nay, if it really be the opinion of Mr. Spring Rice that I have no case, what as he to fear, why oppose the completing of its investigation?

Every time my case has been brought before the attention of the House, it has been met on the part of the Government by new objections, retaining, however, at the same time the three original favourite ones, namely:—

1st. That I had myself admitted, in a deed of covenant concerning a money transaction, to a certain person of the name of Richmond, and signed by me, that the property I claim indemnity for, at the time of its confiscation was not my property, but that of my father.

2nd. That my case had been regularly gone through and adjudicated.

3rd. That the House of Commons was not to be made a court of appeal.

The following statements of facts will shew what credit is to be given to these objections.

I shall not here enter into the general demerits of the award of the Commissioners, or their misrepresentations of the documents that were before them. I shall only advert to the adjudication, and give an extract from the statement I have drawn up of my case from that part concerning the award, and referring to the two first objections.

The Commissioners conclude their award as follows:—

" Whereupon the Board resolved, that the said claimant has not com-
" plied with the provisions of the 5th and 6th Articles of the Con-
" ventions, either as respects the proof therein required, of propric-

" torship in the person claiming, or of confiscation; and that he has " not established in proof, that the loss for which he has claimed an " indemnity is a loss suffered by a British subject, as such, in virtue of " the said Decrees of confiscation and sequester, according to the true " intent and meaning of the Convention of the 20th November, 1815.

" The Board accordingly resolve, that this claim be rejected."

On the 26th of April, 1822, when the Commissioners made this award, I was at Paris, in progress of obtainment of additional evidence, and also waiting for the legalization of evidence already obtained; and that my then agent, Mr. Brackenbury, had officially announced to the Commissioners by writing, "that he had no hesita- " tion in saying, that every thing they required would be obtained, " and requested that they would suspend their award till the receipt " of such further confirmatory documents, *(then lying for legaliza-* " *tion at the different offices at Paris)*, and those yet expected from " Soultz, until my arrival in England, for the purpose of giving me a " favourable hearing, and the benefit of such additional evidence; *as* " *neither he (Mr. Brackenbury) nor counsel, could do that justice to* " *my case which it deserved, without my presence, and the additional* " *documents alluded to.*"

If the Commissioners, therefore, did not think the evidence before them sufficiently conclusive to make the award in my favour, why did they not wait my arrival from France, instead of closing it in the absence of most important evidence, which had been announced to them,—the Commission having remained open for the adjudication of other claims, till July 26th, 1826, four years and three months after the award of rejection made against me?

With the 5th and 6th articles of the Convention alluded to in the conclusion of the award, I have strictly complied; but supposing I had not, it could only have reduced my claim to the value of my interest as remainder-man; this point, if anything further was wanting, having been settled by the judgment of the Privy Council, June 21st, 1821, on the appeal in André's or Girardot's case, which was a claim for a *contingent* reversionary interest. My claim, however, under the circumstances above supposed, stands on much stronger grounds; it is not in respect of a merely contingent or reversionary defeasible interest, but a vested *indefeasible* interest in remainder—a vested right.

By this judgment, the Lords of the Privy Council laid it down, and the precedent has been established, that *British born* subjects were, under the Convention of 1815, to be indemnified for interests in reversion, or in remainder, although derived from a foreign parent.

As to not having established the proof that the property was confiscated, in virtue of the confiscatory decrees against the property of British subjects—the Convention prescribes no such thing. Those decrees were of October 9th, 1793, and the Convention only requires proof of a confiscation since January 1st, 1793. The judgment of the Privy Council in Devereux or Fanning's case, September 18th, 1820, also decided that question; laying down the maxim, that the

Convention should be largely and equitably construed, that the real intent and meaning of the Convention was to indemnify British subjects, for the losses they had sustained in the limits of France *during and in consequence* of the French revolution; the claim in that case having been for property confiscated in 1791, as belonging to a French emigrant, and sold in 1794, as the property of a French emigrant. Indeed, the greater number of claims allowed, have been for property confiscated and sold as the property of emigrants. My property was, however, confiscated October 10th, 1793, and sold in June and October, 1794. How could then the Commissioners make their award of rejection on two grounds, which had already been settled and over-ruled by a decision of the court of appeal?

Extract from the statement I have drawn up, of the merits of my Case.—Part IV, concerning the Award of the Commissioners.

The Commissioners in their award, under head VII, state as follows:—

"A copy of a covenant and declaration (the original whereof was "produced to this board, on the 18th day of April, 1822) made "between Clement Joseph Philip Pen, Baron de Bode, and Thomas "Garner Richmond, dated 15th December, 1821, *respecting the* "*assignment to the latter of certain sums*, in case an award should pass "in favour of the said Baron, and in which said covenant and "declaration, the facts of the said case are fully stated as follows."

The Commissioners then make a long extract of the contents of the deed of covenant, but of which it will only be necessary to give that passage on which they ground their award of rejection, and to which they so often refer in their award, as also on other occasions.

"And whereas the Government which presided at that "time in France, seized and sequestered the said lord-"ship of Soultz, under the pretence that the said Charles "Augustus Louis Frederick Baron de Bode, was a subject "of France."

This is not a true copy, and could not have been compared with the original, this passage having been struck out before the deed was executed, as attested at the bottom of the deed, viz., "Signed, sealed, "and delivered by the within-named Clement Joseph Philip Pen, "Baron de Bode, and Thomas Garner Richmond; part of the twelfth "line, beginning with the words 'and whereas,' and part of the "thirteenth line, ending with the words 'of France,' being first "struck out in the presence of G. Cooper, James Grubb, 7, Copthall "Court, London." The citation, therefore is false and yet it is upon this cancelled passage that the Commissioners principally found the rejection of my claim.

The instructions for drawing this deed had not been given by me to Messrs. Tomlinson and Cooper, the attorneys of Mr. Richmond, but by Mr. Richmond himself, who was far from being master of the

merits and details of my case.—I only was made acquainted with it, when it was presented to me ready engrossed for my signature;—I disapproved generally, at the time of the signing this Deed, of the different erroneous statements made therein, and protested against them; and only after the one in question (the most objectionable one) had been struck out, I consented to sign the Deed as it was, lest by farther alterations it should be defaced entirely, to save time and expense, at the particular request of Mr. Richmond.

The very idea of my having given such instructions for such a Deed or signed it unconditionally, is preposterous; it would have been stating wilfully untruths, for the mere pleasure of destroying my case;—and it is clear that Mr. Cooper and Mr. Richmond did not understand perfectly the bearings of my case, when the one gave the instructions, and the other drew the Deed in conformity with those instructions, because the money to be advanced, was for the sole purpose of enabling me to make search for documents and substantiate facts diametrically in opposition to those recited in this Deed of Covenant,—and it is in consequence of Mr. Richmond, with the assistance of his attorney, having better understood the merits of the case from the fresh explanation I gave them of it at the time of signing this Deed and the striking out of the passage in question, that he, after having failed to make me assign to him the whole of my property, presented in revenge the draft of this Deed of Covenant to the Commissioners.

In May, 1824, I laid before the Privy Council, a written statement signed by myself, of all that passed at the time when I executed this Deed of Covenant;—also a joint Affidavit to the same, by Mr. Cooper the attorney and Mr. Richmond, sworn the 28th April, 1823, shewing the protestations I had made against several recitals contained in that Deed, and of the striking out the passage in question before I executed it;—as also an Affidavit from a Mr. Baker, sworn the 25th May, 1824, as to a conversation between himself and Mr. Richmond, the morning when he was on his way to the Board of Commissioners to present to them this said Deed of Covenant, having amongst others said,—*that he was then going to cut my throat in the case of my claim, by producing the said Deed of Covenant* he then held in his hand, to the Commissioners.

This Deed of Covenant was no evidence in my case, it was not presented by me, nor did I receive even the slightest intimation that it had been produced against me, till I was informed of it by the award itself.—It was a document containing stipulations as to a bonus for a loan of money which, after all, I never received; —Mr. Richmond instead of advancing, or producing the 1600*l.* mentioned in this Covenant, made use of securities intrusted to him by me for negotiation for my benefit, and applied them to his own purposes, so that he is my debtor and that to a considerable amount; but having been a Bankrupt and afterwards taken the benefit of the Insolvent Act, I have no remedy against him.

The Commissioners, in their letter of April 18th, 1822, refuse to

wait for the arrival of most important documents in support of my claim, and appoint an early day for the hearing of my case; because, as they express themselves, "*they are of opinion that the interval "between that day and the next Wednesday will be amply sufficient, "considering the state of my case, for enabling any person fully to "prepare all the materials necessary for such a hearing;*" and on THIS VERY DAY they receive this private deed of Covenant on which they principally ground their award of rejection.

If the Commissioners had been satisfied with the vouchers before them, so as to warrant an award in my favour, they might have waived the production of additional evidence in support of my claim; but that not being the case, to preclude me from laying before them my additional evidence, and at the same time to receive evidence against me, is an instance of partiality and injustice which I suppose is wholly without precedent!

The Commissioners do not say that this deed was executed by me; they never apprised me of having received a copy of it, nor had they, indeed, any proof that it had been executed by me.

Had the Commissioners, as in duty bound, used ordinary and just precaution, they would have given me notice of having received this deed of covenant, when they would have been put in possession of the circumstances attending the execution of it. But no; they deny to me this opportunity of obvious correction. As soon as they imagine that they have found a pretence, however flimsy, for defeating an inconvenient claim, they seize upon it with an eagerness which makes them set at defiance the plainest rules of justice and common sense.

The Commissioners were, however, guilty of more than *misapprehension;* for the day on which the deed was presented to them (April 18th, 1822) is noticed by their secretary on the original deed in his own hand-writing, and signed with his initials, and the stamp of the Commissioners' Office is stamped on the deed; they therefore could not avoid seeing also that the passage in question was struck out. The Commissioners not only recite this passage in full, in their award, and refer unremittingly therein to it, and principally reject my claim on the strength of this cancelled passage, but they cite and refer to it again in their Report of May 17th, 1827, to the Lords of the Treasury, after their misconduct in citing this cancelled passage as an existing part of the instrument had been distinctly pointed out.

The late Sir Christopher Robinson, the late Lord Gifford (when Attorney-General), and Sir Nicholas Tindal, recite in full this struck out passage in the case signed by them, and printed for the appeal, in support of the award of the Commissioners. Sir Nicholas Tindal referred to it in his address to the Lords of the Privy Council on the appeal; again on July 1st, 1828, when Lord Stanley moved for a Select Committee, Mr. H. Twiss and Sir Charles Wetherell (then Attorney-General, who with great emphasis informed the House "*that he had waded through the load of papers belonging to my case with great patience and industry*") referred to this cancelled

passage, although Lord Stanley had adverted most distinctly to the fact that it had been struck out before the deed was executed, besides my having complained and denounced that circumstance over and over again in the different petitions and memorials presented by me to the Lords of the Treasury, and in my letters to the Duke of Wellington, Mr. Goulburn (then Chancellor of the Exchequer), Mr. G. Dawson, Secretary of the Treasury, and other members of the Government. The Government cannot, therefore, plead ignorance of that circumstance; Sir Charles Wetherell's allusion to that cancelled passage, unfortunately for me, coming as it did from such high authority, had a cruel effect, many M.Ps. having thereby been misled and imposed upon; add to this, the effect of the Treasury circulars sent that morning to those M.Ps. in the habit of voting with the Government, *that their attendance was most earnestly and most particularly requested that evening in the House of Commons, a division being expected on the case of the Baron de Bode.*

The motion for the appointment of a Select Committee to examine my case was in consequence lost,—I have seen three of those circulars, and believe I have one yet in my possession.

In my second petition to the House of Commons, presented by Lord Stanley on the 5th of April 1830, which was read and ordered to be printed, I had made the statement of the Commissioners having principally founded their award of rejection, *on a passage pretended to be in a private Deed, but which passage did not exist in that or any other Deed:*—Again in my petition presented to the House, 15th May, 1833, by Mr. Hill, appears the following passage:—"Nevertheless the Commissioners *cite this passage so struck out, in "full in their award of Rejection, make it evidence against your Peti-"tioner, refer to it in several instances, and found their Award against "him upon it, and this cancelled passage* is the only part of the Deed "to which they principally refer." And yet in the very face of this, on the 1st of May, 1834, when Mr. Hill moved for a Select Committee, he was opposed on the part of the Treasury by Sir Charles Pepys, then Solicitor General, who cited and relied on this same cancelled passage. This Deed of Covenant, with the full insertion of the cancelled passage, was printed; and the first half sheet of it, in which this passage appears in full, was handed clandestinely to many Members a few days before the motion came on, and even in the lobby of the Houseitself on the day the motion for the appointment of a Select Committee was made, for the purpose of exciting prejudice against my claim.—Mr. Mackenzie, the head Commissioner of the late Commission, even shewed it to Mr. Lomanosoff, the then first Secretary to the Russian Embassy, and for what purpose if not for that of exciting a false impression as to the merits of my claim? —but the other half sheet of the Deed, in which was the special attestation that this passage had been struck out before execution, was carefully suppressed.

I think that without going into any further details of the award of rejection of the Commissioners, there is sufficient to be elucidated

from the above, to shew that my case *has not been regularly gone through*,——That this award, made upon evidence never communicated to the party to be affected by it, and self-evidently false, can never be called an *adjudication*.

Extract from the Statement I have drawn up of the merits of my Case.—Part VI. Concerning the Appeal heard, and Judgment given, June 23rd, 1823.

The Lords present, were the Earl of Harrowby,—Lord Stowell—Lord Colchester—Sir John Nichol—and Sir Henry Russell.

Their Lordships' judgment was pronounced by Lord Stowell as follows:—

"This is an appeal brought by an unfortunate Nobleman from an "award made by the Commissioners liquidating British Claims, and "after the best attention the Lords had been able to give the case, it "appeared that the claimant had completely failed in regard to the "ownership of the property; that it had been a contrivance originating in the mind of the father, and by no means an improper one, to "delude the French Government, and which proved ineffectual: and "therefore under all the circumstances, although hard it might be for "the unfortunate Nobleman, yet the Lords were bound to confirm "the award."

I am fully aware that to find fault with their Lordships' decision will be thought very presumptuous and bold of me, and that the opinion of such men as Lord Stowell and Sir John Nichol must have great weight, considering their high reputation: there can be no doubt that no one would venture to find fault with a judgment pronounced, or an opinion formed on a case by those high characters in their respective courts—the court of High Admiralty, and the Prerogative Court,—a long series of years of experience has raised them to that fame. But my case is probably different from those on which their Lordships have been accustomed to pronounce judgment—my case depends neither on the laws of these realms, nor on the maritime section of the laws of nations;—its merits rest on the laws and customs by which that country was ruled where I lost my property, and on political circumstances, arising from treaties and conventions: and it is very possible those distinguished characters may not have been perfectly cognizant of the details of the political relations of Alsace, towards France, since its annexation to that kingdom by the Treaty of Westphalia in 1648, down to the French Revolution, and then down to the Treaty of Lunéville in 1801,—and of the laws by which it was ruled during those different periods.

I hope, therefore, that the remarks I am going to make on their Lordships' confirmation of the Commissioners award of rejection, will not be considered presumptuous, or disrespectful, and that it will be borne in mind that my fortune is at stake.

The principal point argued at the appeal, was the cession my late father made to me of all his rights and title to the property (which is the subject of my claim,) during the revolution in 1791 :—the reason why this point was more argued and insisted upon, was, that it was the cession only which the Commissioners required to be proved, although *I had not claimed under the cession, or even adverted to it in my several memorials to the commissioners,* not considering the proving of the *donatio inter vivos* of my father to me, of the property in Alsace, which was in his possession, necessary to establish my claim. Moreover, when the Commissioners had fixed upon the cession, and examined me on it, *I expressed doubts of being able to prove it;* the original notarial books in which the minute of it had been recorded having been destroyed in December, 1793, when Sultz was sacked and pillaged by the French army. But it being a true and *bonâ fide* transaction, executed according to the existing laws and customs of the country, and taking place in so public a manner, there seemed no difficulty in establishing that point; because, upon that point being established, the proprietorship would be more directly proved, the question would be simplified, and the necessity of proving the hereditary feudal right, or right in remainder, would be rendered superfluous. It never had appeared that my right in remainder was ever doubted, or called in question; nor did the Commissioners in their memorandum of the 23d of August, 1821, in which they prescribe the evidence I was to produce in support of my claim, *call for such evidence;* nevertheless, I was, as I have shewn, provided with vouchers to support my right in remainder, had it been called for. My counsel, Dr. Lushington, did not therefore enter into the merits and minute explanation of my right in remainder: yet he told their Lordships that the nature of the property was such, that my father could not sell, mortgage, or by any means encumber it :— and which circumstances were likewise distinctly stated in the printed case of appeal then before their Lordships, viz: "He, the Baron de "Bode the father, was anxious to take precautionary measures for "his own safety, and to secure to his eldest son the enjoyment of "those rights and that extensive domain to which by the law of the "country the next of kin *must* succeed, no alienation of such property "from lineal descendants being permitted by the then existing insti- "tutions of Alsace." This was plain; it presented, though under other words, the right in remainder. The expression made use of here by Dr. Lushington, *next of kin,* was not the proper one; he ought to have said, *next feudal male heir.*

Although Dr. Lushington did not, as I had desired him to do, *particularly* request that their Lordships would send my case back to the Commissioners to examine it with the additional evidence, in case their Lordships did not feel themselves justified in giving their judgment in my favour on the evidence before them; and though Dr. Lushington did not make their Lordships acquainted with the particular circumstances connected with the reasons, why that evidence had not been before the Commissioners previously to their making

their award, Dr. Lushington thinking the case sufficiently established without the additional evidence, and apprehensive that in case their Lordships might think proper to send the case back for re-examination, and thereby, in consequence of disclosure, to make enemies of the Commissioners,—yet Dr. Lushington told their Lordships "If he," Dr. Lushington, "was not debarred by the Act of Parliament from "producing fresh evidence, he could lay such evidence before their "Lordships, which would set aside all doubt concerning the cession, "if their Lordships had any on that point."

Their Lordships having been put in possession of the nature of the property, and of the fact that there existed additional evidence, had sufficient before them, as a court of conscience, of equity, or rather arbitrators, in conformity with the intent and meaning of the Conventions of 1815, to justify them in sending the case back to the Commissioners for re-examination, which has been done in other cases, as I am prepared to prove.

Now, concerning their Lordships' judgment itself.

First it is said, "That the claimant had completely failed in regard to the ownership of the property." Did not Dr. Lushington tell their Lordships, that "there was additional evidence, which would set aside all doubt concerning the cession?"—and did not Dr. Lushington state to their Lordships the nature of the property?—and did not their Lordships see the same in the printed case of appeal?—out of which circumstances their Lordships must have been aware that I had a vested right in remainder in the property, which entitled me to indemnity in case the cession could not be sufficiently legally proved to their Lordships' satisfaction. Why did not their Lordships send the case back to the Commissioners to re-examine it, either with the additional evidence, or with a direction to restrict the claim to the interest in remainder, arising from the nature of the tenure, which was not attempted to be denied or doubted? Then it is stated, "that it had been a contrivance of the father to delude the French government, and by no means an improper one." *Is not this admitting the fact of cession?* Which admission of their Lordships herein differs from that of the Commissioners, who admit of no cession at all. Their Lordships only objecting to it, as it appears, from having considered the cession as a temporary expedient and not as an absolute conveyance, when at the same time they find the motive by no means improper; nor was it improper,—it was not done to delude the French government; and if it had been intended to delude such a government as then existed in France, how can it be said, that any act done for the purpose of avoiding the effect of seizure, the violence and injustice of which, the treaties and conventions were created to relieve against, was improper, and therefore void. The cession, however, was made openly and publicly, more publicly indeed, than was absolutely necessary and customary for the mere transfer of property from man to man—it was so done to give the act more solemnity; to make it more generally known that my

father had ceased to be the proprietor of it, and that I, an Englishman, had become the sole proprietor of it. It was certainly done in anticipation of the promulgation of Decrees, which divest the property from the eldest son, and force it to be divided amongst all the children; but these decrees were not then in existence, nor were they fully efficient till 1794. Was therefore the transaction illegal? Their Lordships were perhaps not aware that this was a common practice at that time, resorted to by thousands of fathers, to secure the property to the legal heir, before, by any mischance, a division of it could take place from the threatened abolition of the then existing laws of primogeniture; expecting that when at a future period tranquillity and order were restored, the old laws would likewise be reinstated, and the family estates have thereby escaped dismemberment. The motive or reason, however, *why* a person disposes of his property to another, is surely a point of little consideration, provided he does *in fact* dispose of it according to the existing law.

Lastly, their Lordships say, "and which proved ineffectual:" why did it prove ineffectual according to the sense here conveyed? Was it because the cession had been made to me, to secure this property more effectually in my person, to prevent the possibility of its being dismembered? And admitting even for argument's sake, an intent to delude the French government, and that notwithstanding that the French revolutionary government confiscated and sequestered it; yet, on whatever grounds the revolutionary faction may have chosen to act, the cession was legal, and made according to the existing laws, and the property therefore at the time it was seized, was vested solely in me, a British subject.

Did not their Lordships know that there is no gift so binding, so irrevocable as a cession (*une donation entre vifs*)? that such a donation cannot be made with any reserve whatsoever—that the donor by such a donation divests himself irrevocably of his property? I am willing to believe that it is from ignorance of foreign law, that their Lordships have committed the error—nevertheless, I have suffered most cruelly from that error—if their Lordships had only consulted a Merlin or any other French *jurisconsulte* for ten minutes, it would have spared me years of misery and anxiety of mind, which nothing in this world can compensate me for.

The Conventions were to be largely and equitably construed,—the right of claiming of the registered claimants was already established by the fact of their names having been placed on the register—the Commissioners appointed under 59 Geo. III, c. 31, had therefore only to examine the vouchers of the claimants as to the proprietorship of property for which they claimed, and as to the amount they demanded, and to pronounce thereupon—and in case a claimaint was not satisfied with the Commissioners' award, the matter was to be settled on appeal before the Privy Council; this was the plain manner of proceeding. But what has really been the case on the appeals, at least in my case? the law officers of the crown disputed *my very right* of claiming—after the case had already been

entertained by the Commissioners; not meeting the case fairly and liberally on facts, according to the sense and meaning of the Conventions. Among other things, they contended, that the Commissioners stood in the shoes of the French Government—This proposition I deny. The French Government had a legitimate right to oppose the establishment of the claim of an individual, even to be placed on the list as a British claimaint, if they could prevent it, as they were to provide for the payment of it; but the British Commissioners at London, who had only to carry *into execution and complete* the conventions in favour of those claimants, whose *right* to appear in the character of claimants was already admitted, did therefore stand in quite a different position, from that in which the French Government had originally stood—and were therefore not warranted to oppose to a claimant any preliminary objection to his right to appear in the character of a Claimant, which, (not being sustainable,) the French Government had not chosen to take.

It would appear as if the Lords of His Majesty's Privy Council, sitting for such length of time on Colonial Appeals, had erroneously applied their experience in such cases to the case of French Appeals. The cases are quite distinct, the French Commission being instituted as a Court of Equity, to be conducted on the broadest scale of liberality, because, if the unfortunate claimant who tried to recover compensation for his lost property, and for whom an allowance had been made by France, was defeated, and that defeat contributed to effect a surplus, it was for the benefit of the crown, or rather the nation, which had already received its share of indemnity by special sums paid by France for that purpose. It is no answer to this observation, to say that the Government had no intention to keep such a surplus, but was prepared to give it to the supplementary claimants, who are excluded by the conventions from participating in these funds, and to the claimants of Convention No. 13, who have had the sum allowed for them, distributed amongst them; because such a disposition of the fund would be merely arbitrary and gratuitous, and it would be in the power of Government to apply the surplus in the extra expenses of Buckingham Palace, or upon any other object for which it was not convenient to go to Parliament.

There are two circumstances that occurred at the appeal, to which I must yet refer; first, when Sir James Parke, my junior counsel, began to draw their Lordships' attention to that part of the Commissioners' award, where they made that gross blunder concerning the mines, where they say that since the 12th July, 1791, I had no longer any property in the mines; Mr. Collingwood, one of the Commissioners, rose and stated himself, as well as through the leading counsel of the Treasury, Sir Christopher Robinson, that they were wrong in that point, that they gave it up, and that therefore it would be needless to argue further on it. If they gave up that point, their statement in the Award was then incorrect, and they thereby admit my possession of it at that period—yet after the acknowledgment of such a gross misstatement, misrepresentation of a

fact, and apprised of the existence of additional evidence, the Lords of the Privy Council do not send the case back to the Commissioners to amend their award, but confirm it.

The second circumstance is:—When counsel and strangers were ordered to withdraw, to leave their Lordships to consult upon the judgment they were to pronounce, I observed that the leading Treasury Counsel, Sir Christopher Robinson, who had just pleaded in opposition to me, and who had signed the Commissioners' Case against me, *had remained with their Lordships during their Lordships' deliberations.* On inquiring the reason of his remaining with their Lordships, I was informed that it was to assist them in their deliberations!! Having expressed my astonishment, and perhaps more than that, to Dr. Lushington, Sir Nicholas Tindal, Sir James Parke, Mr. Carr, and others then in the ante-room, I was assured by those I have just named, that that proceeding was *customary.* The only comment I shall allow myself is, that after that, I do not see why I should not be appointed to decide on my own case.

I have stated that I can prove that in other cases the Privy Council had sent back cases to the Commissioners for re-examination. In the case of *André* (executrix of Girardot), on the appeal the 21st June 1821, the award was rescinded, and the *case referred back to the Commissioners.* The same in Boyd, Ker, and Co's. second case of appeal, the award was rescinded, and the *case referred back to the Commissioners.* In the case of Law and Chevalier, at the appeal, June 28th, 1824, *the award was referred back to the Commissioners;* and in Sir John Nelthorp's case, not only was the award *rescinded by mutual consent,* at the appeal, March 10th, 1824, but actually fresh and unlimited time was granted for the claimant to *search and procure* new additional evidence. In another case of appeal, of Boyd, Ker, and Co., June 10th, 1826, in the Luxembourg question, their Lordships ordered the award to be altered. In Williams and Newland's case, on the appeal of June 21st, 1821, on their second award, the award was affirmed, but with *variations.* Now in my case, at the appeal, the Commissioners, in the person of Mr. Collingwood and their leading counsel, Sir Christopher Robinson, confessed that they were wrong as to the statement made in the award concerning the proprietorship of the mines, and my counsel was in consequence stopped from proceeding in his arguments on that point. So far, therefore, as this goes, to say the least of it, the award called for *a variation,* or to be altered, as in Boyd's case, on the second award concerning the Luxembourg question. I do not complain of these cases being sent back to the Commissioners for them to re-consider their award; nor that, in many instances, fresh time was granted to claimants to search for additional evidence: no, by no means; this was right,—it was acting in conformity with the intent and meaning of the Conventions, which were to be largely and equitably construed. But I complain that the same line of conduct has not been observed towards me; and I cannot help repeating here, that their Lordships being apprised

of the existence of additional evidence which I had been debarred from the opportunity of producing, ought, as a Court of Equity (appointed in the room of the arbitrators of the mixed Commission at Paris), to have sent the case back to the Commissioners to re-examine it, together with that additional evidence, and make then a new award thereon; and that if justice—legal, or simply moral—has been administered in those cases, it has not been so in mine.

But how the Privy Council could reconcile their confirming the Commissioners' award,—the two points on which they rejected my claim—with their former decisions on those very same points in the cases already alluded to, of Fanning and André, must be left to conjecture.

I have already proved, that as far as the award goes, my case has not been regularly gone through; and I think no one will maintain that my case has been regularly gone through as to the appeal.

Extract from the Statement I have drawn up of the merits of my case.—Part VI, concerning the re-hearing of the Appeal, May 6th, 1826.

Present, Lords Harrowby—Stowell—Bexley—Gifford—and Colchester.

My counsel were heard in support of the subject matter of my petition, but when Mr. Carr, my leading counsel, on opening the case, appeared with my printed petition in his hand, and had unfolded and referred to it, their Lordships seemed quite surprised; and the late Lord Gifford asked what it meant; Mr. Carr explained. Their Lordships then signified that they knew nothing of that printed case; that this was the first they had heard of it. Mr. Carr then said that he understood a certain number of copies of it had been delivered at the office of their Lordships; and applying to me on the subject, I told their Lordships that on the 1st of July, 1825, twenty copies of the printed petition for the re-hearing had been delivered at their Lordships' office, and that my solicitor's clerk, who had delivered them, was in attendance. Mr. Buller, the clerk of the privy council, was desired to make inquiry after them; when he returned, he said that none could be found; upon which, my solicitor's clerk having five or six of them in his bag, I gave them myself to Mr. Buller, who laid them before their Lordships. Lord Gifford, during the interlocution, observed that they knew of nothing, except the *written* petition he then held in his hand. This petition must have been that of the 29th of January, 1824, or that of the 27th of May of the same year; because I recognized my own handwriting, and of the petitions sent by me to the King in council, those two only were in my own writing.

Their Lordships having been totally ignorant of the existence of the printed case for re-hearing, is a proof that my two petitions of December 1st, 1825, and March 6th, 1826, had not been laid before them, or that they had not read them.

During the address of my counsel, their Lordships looked at some

parts here and there of the printed case; but it was utterly impossible for any one of them to peruse the whole, or even a quarter of it—the time was far too short, and they were under the necessity of lending their attention to my counsel, as far as the other occupations in which their Lordships were undoubtedly engaged during the proceedings would allow. The case consisted of thirty-three large folio sides, and contained a minute statement and explanation of the merits of my claims, a summary of the nature and bearings of my additional evidence, and also the reasons before-mentioned why I felt myself aggrieved, and why my case ought again to be re-heard, or referred back to the Commissioners.

My counsel were not allowed to go into the merits of the case, though they had pledged themselves that if their Lordships would allow them to do so, even without the additional evidence, they should be able to convince them of my rights, and to induce them to come to a different conclusion from that which they had arrived at on the former occasion, by reason of the little elucidation and explanation that was offered to them at that time, of those documents which had been so grievously misconstrued and misrepresented by the Commissioners.

The only point which my counsel were allowed to argue, was as to the power of their Lordships to grant a re-hearing, or to send the case back to the Commissioners for reconsideration.

Anticipating their Lordships' judgment from the fact that their Lordships could not be cognizant of all the merits of my case, three of my petitions being unknown to them, and they not having had my printed case for re-hearing, regularly laid before them as above observed, so as to make themselves acquainted with the facts; and likewise suspecting that their Lordships had not perceived the five affidavits which I had presented with one of those former petitions; —when counsel and strangers were ordered to withdraw, I asked their Lordships permission to make a few observations: when the late Lord Gifford said, that as their Lordships had heard my counsel, they could not allow me to be heard also.—I felt deeply on the occasion, that the observance of precedent, obstructed the attainment of justice. In case their Lordships had granted me a hearing, it was my intention to have drawn their attention to these circumstances, and to have begged their Lordships to postpone giving their judgment till they were acquainted with the contents of the different petitions, affidavits, and the printed case; and likewise to have drawn their Lordships' attention to the circumstance of the false recital made by the Commissioners in their award against me!!!

Lord Gifford (when Attorney General) was one of the counsel employed by the Government, and signed the case against me for the appeal in 1823, and yet at the re-hearing of the appeal, he sits as the principal leading Judge; this may have been according to usage, like Sir Christopher Robinson's staying to confer with the Lords of the Privy Council, after the argument was over and the parties and their counsel, except himself, excluded—but is this strictly just?

Should not a Court instituted as this was, under very peculiar circumstances, for a very limited time, and for a particular purpose, judge each case on its own peculiar merits, without looking for precedents in that or other Courts which have little or no similitude to it; and where, from its short duration, precedents can hardly be expected to be found? I should conceive a great difference to exist with regard to precedents, and adhering to them in this Court as a Court of Appeal from the Colonies, and as a Court of Appeal from the Awards of the Commissioners for liquidating French Claims. In the one case it is a permanent Court, and has existed as such for a long period of time, and precedents for the sake of order become important, and form a part of its Law; but in the other case it was a Court of yesterday's creation, and has even now ceased to exist.

If however, the Lords of the Privy Council, assembled to hear French Appeals, were a Court bound down by the strict and rigorous rules of a Court of Law, they must, like the High Court of Chancery and other Courts, have the privilege—and justice requires it, of protecting themselves against errors and their consequences by granting re-hearings of cases where it may appear that justice has not been done, and particularly where no appeal is allowed from them.

In the Court of Chancery this proceeding is one of every day's practice.—If the Privy Council, as a Court of appeal from the Commissioners for liquidation of French Claims, was not bound down to such strict rules as a Court of Law—then no difficulty existed in granting a re-hearing of a case, when the application was supported by strong and just reasons.

But it seems from the tenour of the judgment pronounced by the Lords in this instance, that their Lordships wished that it should be understood that they felt themselves peculiarly situated when comparing their Court with others in that particular: and that it was the Act of Parliament 59 Geo. III. c. 31, which prevented their doing that which not only justice required but that their own inclinations would have prompted them to; yet strange to say, on the same day that a re-hearing was refused to me, the Lords granted a re-hearing of an appeal in a case of Messrs. Walter Boyd, Ker & Co., and counsel were afterwards heard thereon. The only difference between the two cases being this technical one, that in mine His Majesty's sanction to the award had been obtained with a most indecent celerity, in the other it had not.—In my case His Majesty's sanction was obtained 23 days after the appeal; in that of Boyd and Co. that sanction was withheld for above 15 months, and then the re-hearing granted.

It certainly was never intended by the French Government that by such an unfair advantage, taken from a technicality, (and that originating with the authority bound to administer impartial justice,) an individual should be deprived of that indemnity which France had provided for him; and that the British government or the crown should benefit thereby: this is contrary to the intentions, spirit, and meaning of the Treaty and Conventions.

The British Government, as trustee of the funds paid by France, under the Convention No. 7, of 1815, for the claimants under that convention, is answerable to them and to France under the Law of Nations, to distribute those funds strictly according to the meaning and intent of that convention, and cannot adduce as a bar to do justice to a claimant, the Royal approval,—*that approval being the act of Ministers, for which they are responsible.*

Why the case was not referred back to the Commissioners for re-examination or its merits otherwise entered into, I have already stated; but besides this circumstance being so unfortunate to me, the re-hearing of the appeal is also under another point of view a most important epoch in the proceedings;—and to which I must draw particular attention.

Lord Gifford in the judgment he delivered further states, — "In this case the decision was approved by His Majesty in Council, "was certified to the Commissioners; and in consequence of that "decision, so certified, THE FUNDS HAVE BEEN ACTUALLY DIVIDED "AMONG OTHER CLAIMANTS. *It is clear therefore there can be no re-*"*dress.*" Now this assertion "*that the funds have been actually divided among other claimants,*" was directly contrary to the fact. There was at that moment at the Commissioners' disposal about £1,250,000 capital, exclusive of the funds paid to the regular registered claimants between the 6th of May, 1826, and the 26th of July of the same year, when the Commissioners closed their proceedings as to the claims under Convention No. 7,—but according to their own showing, they must have had at their disposal at that period, exclusive of the sums paid to the claimants between the 6th of May and the 26th of July, 1826, above £480,000,—unless Buckingham Palace was admitted as a claimant against France under the Convention of 1815; and supposing, for argument sake, that to have been so, there was even then £380,000, according to their own showing at their disposal, because there had been as yet at that period only £100,000 parted with on account of Buckingham Palace. These £100,000 having been parted with to the Woods and Forests, January 24th 1826, nearly three months and three weeks before my appeal for a re-hearing came on—and one month and a half before the date of the treasury warrant, which authorized such a misappropriation! This needs no comment.

Under the date of the 2nd of May, 1826, four days before my appeal for a re-hearing came on, the Treasury issued a minute which authorised those claimants who had forfeited their rights of prosecuting their claims, by not having given notice of them within the time prescribed by the Conventions, and 59 Geo. III. c. 31, and therefore excluded from the participation of these funds, to present them henceforth. In the Return No. 417, June 9th, 1828, the date of this Treasury minute is stated to be May the 5th. In the Return, No. 296, June 10th, 1835, it is stated to have been May the 2nd, 1826,—I confess it seems to me, that the inference to be drawn from the parting with a portion of these funds, and from admitting the

supplementary claimants (to whom at a future period as shown by the Commissioners, £191,589 6*s*. 0*d*. has been paid) to indemnity out of these funds, contrary to the meaning and intent of the Conventions, before my case of appeal had been decided, is, that the Government was pretty well satisfied beforehand, before the appeal was heard, what the decision would be; and that it acted accordingly. Or was this sum of £191,589 6*s*. 0*d*. already expended before the Treasury minute of May 2nd, 1826, was issued, to authorize the supplementary claimants to participate in the fund in question, as the £100,000 had been expended upon the repairing of Buckingham Palace six weeks before the Treasury Warrant was issued? As for the payment of the £191,589 6*s*. 0*d*. to the supplementary claimants, it is true we have but the Commissioners' word, the authority of which is so much the less, as that statement only appears in an item in a return fabricated to serve a temporary purpose; I allude to the Return of June the 9th, 1828, No. 417, and which is a false return. Whether, therefore, this sum has actually been paid to supplementary claimants, no return having been given on the subject, or whether it has been expended in the building of a cottage, or in the purchase of diamonds, or any thing else, is as yet a mystery, enveloped in darkness. Is it to be believed that Lord Harrowby, Lord Bexley (who had from 1812, up to 1823, been Chancellor of the Exchequer,) and Lord Gifford, all well initiated into the mysteries and working of the Government, were not fully aware of these circumstances, namely, of the parting with a part of those funds, and of the Treasury minute, admitting the supplementary claimants to compensation? Where was the good of admitting the supplementary claimants May 2nd, 1826, to compensation, if before that date the fund in question HAD ACTUALLY been disposed of? and more especially Lord Gifford, who when Attorney General, as legal adviser of the crown had taken such a prominent part in the defence of the Commissioners against the appeals of the claimants? Is it to be believed that their Lordships did not know better, than "that the funds had been actually divided among other claimants" at that period? If not, they had been most grossly imposed upon. I am warranted from these and other facts, not bearing upon the present question, and in the details of which I will therefore not enter, to believe that this assertion was made on the presumption that the real truth would never come to light. The tardy admission of the misappropriation of the £250,000 towards the building of Buckingham Palace, as a temporary loan to the Woods and Forests, was merely to get out of the difficulty caused by the disclosures made by the Finance Committee.

In that memorable debate of June 23rd, 1828, (as reported in the Mirror of Parliament), on the motion of the late Michael Angelo Taylor, on misappropriation of public funds, where the malpractices of the Treasury were so unanswerably exposed, will be found the statement of Mr. Arbuthnot, one of the then Administration, wherein he admits the proceedings of that spoliating congress which

assembled at the Treasury itself, and came to the resolution to appropriate *for other purposes than for which they were intended*, the funds paid by France under the Conventions of 1815 and 1818, to indemnify British subjects for the losses they had sustained from confiscation of their property in France by the revolutionary government. Lord Liverpool, First Lord of the Treasury, Lord Goderich, Chancellor of the Exchequer, Mr. Canning, Secretary of State for the Foreign department, Mr. Arbuthnot, First Commissioner of Woods and Forests, and Mr. Mackenzie, the principal Commissioner for French claims, were present. And when did this meeting take place, where men in power, to the dishonour, I must say, of the British Government, came to such a discreditable determination? It must have been in January, 1826, because we find by the Return No. 219, of April 19th, 1833, that it was on the 24th of January, 1826, that the first £100,000 was parted with towards the building of Buckingham Palace,—therefore about four months before the re-hearing of the appeal in my case was to be heard!!! And now I ask, is it to be believed that individuals connected with the Government, like my Lords Harrowby, Bexley, and Gifford, (my judges in the Privy Council), were not acquainted with these facts? If they were, could they have given judgment in my favour without embarrassing the Government?

Lord Gifford when Attorney-General, as legal adviser of the crown, had signed the respondents' case in support of the Commissioners' award of rejection against me; and I cannot help observing that under such circumstances, it was rather indelicate that, at a subsequent period, he should have sat as my judge, in the same cause in which on a prior occasion he had taken an active part against me.

The Commissioners illegally bound me down to time, for the production of my vouchers in support of my claim, and singled me out in enforcing such arbitrary measures, although the commission remained open for more than four years after they had made their award against me, during which period, they received vouchers from other claimants, and examined and adjudicated their claims,—and although, by their letter of the 12th of December, 1816, they announce to me, that they "are unable to state the time in which the claims for "landed property may be expected to be brought forward for exa-"mination, or to point out to me the proofs that may be hereafter "required in support of my claims." Notwithstanding reiterated applications to them, to be informed of the nature of the evidence they would require, I was left by them without such communication till August 23rd, 1821, a lapse of nearly FIVE years, when they became so arbitrarily pressing for the prompt production of the vouchers, knowing it was from the very circumstance of their having left me nearly five years in suspense, that my means had been so reduced, that it was out of my power immediately to proceed to the Continent in search of the documents which they then required:—and considering

1st. That they made their award in the absence of most important

documents, with notice that those documents were shortly forthcoming, some of them already obtained, only awaiting in Paris the necessary legalization.

2ndly. Considering that they principally grounded their award on a passage in a deed, struck out before that deed was executed, as specially noticed in the attestation,—a deed that was not in evidence in my case—a deed, of the execution of which they received and required no proof, and of which they never have possessed but a copy, and the possession of such copy I, for the first time, was made acquainted with in finding it included in the award.

3rdly. Considering the several great mistakes they have been guilty of in their award, one of which they acknowledge on the appeal concerning the mines.

4thly. Considering the gross misconstructions, misrepresentations, and ignorance they have displayed in their award, particularly about their observation on the word "*manifesté publiquement*," which they wrest to a different subject-matter from that to which it is applied in the certificate in which it occurs; and about the "*biens caducs*," or escheated lands, which they assume to be *ex vi termini* of no value; as also concerning the receipts they require for me to procure, which I myself am supposed to have given to farmers, but which they at the same time assume to be in my possession.

5thly. Considering that they have not adjudged upon, or taken the least notice in their award, of my vested and indefeasible right in remainder.

6thly. Considering the unfounded judgment they have pronounced, that I have not proved any proprietorship in the property in question, although on the appeal they acknowledge that they were wrong as to the mines.

7thly. Considering that the Commissioners made their award of rejection before the arrival of the additional evidence, and which therefore could not be laid before them previously to their making their award, and refused to receive it after the award was made, although they had promised so to do; whereby I was prevented from availing myself of it on the appeal, in consequence of section 12 of 59 Geo. III. c. 31; and considering further, that the Commissioners, fearful that I might nevertheless attempt to avail myself of that evidence at the appeal, intimated by a written communication, that if I made such an attempt, the case would at once be dismissed without a hearing.

8thly. Considering the discrepancy between the award and the judgment of the Lords of the Privy Council—the Commissioners admitting no cession at all,—the Lords of the Privy Council, on the contrary, admitting the fact of cession, but contrary to justice and common sense, objecting to the *motive* by which they assume my father to have been actuated.

9thly. Considering that the Lords of the Privy Council were apprised of the existence of additional evidence, which if not debarred by the Act of Parliament from laying before them, would

have removed all doubt concerning the cession, if their Lordships had any on that point; considering that in consequence of that announcement, their Lordships did not call in question the fact of cession, but assumed a motive for making it, to which their Lordships objected, instead of sending the case back to the Commissioners, to examine it anew with the additional evidence which justice required, and which in numerous other cases was done.

10thly. Considering that the Commissioners pronounced their award of rejection on two points, and the Lords of the Privy Council confirmed that award, notwithstanding that on former appeals they had, with reference to the spirit and real meaning and intent of the Conventions, decided those two points in favour of the claimants, thereby establishing a precedent on which the Commissioners have acted in other cases, and which obviously ought to have been acted upon in mine.

11thly. Considering, according to the judgment pronounced at the re-hearing of my appeal, that the powers of the Lords of the Privy Council sitting on French Appeals, were so circumscribed by the Act of Parliament, that if they committed an error or an oversight, the effect of which might deprive a claimant of his property, they possessed no power of correcting it, however gross and palpable it might be.

12thly. Considering that the minds of the Lords of the Privy Council presiding at the re-hearing of Appeal, must have been much prejudiced, they stating in their judgment, that the funds had been actually divided among other claimants, *and that it was clear there could be no redress*; that this fact being positively contrary to truth, their Lordships were grievously mistaken.

Can it after this be maintained that the case has been regularly gone through, and properly and finally adjudicated by the *competent appointed authorities?*

On the first of May, 1834, Mr. Hill, late member for Hull, brought my case before the attention of the House of Commons; when it ordered:—"That a select committee be appointed to exa-
" mine into the facts and circumstances of the claim of the Baron de
" Bode, upon the fund received from the French Government for
" indemnifying British subjects, for the loss of property unduly con-
" fiscated by French authority, and to report the same with their
" observations thereupon to the House: and also that the Committee
" have power to send for persons, papers, and records, and that five
" be a quorum of the said Committee."

This was the first and only time that the question was left an open question, and as I have already observed, the greater part of the Members of the then Administration, were in favour of the investigation of my claim; the only opposition I met with being from the Chancellor of the Exchequer, Lord Althorp, and the Secretary of the Treasury, Mr. Spring Rice—the interest of the Treasury being at stake; because if I substantiated my claim, the Treasury would have to part with the sum which would be found to be due to me, and in case of there not being sufficient funds in hand for that pur-

pose, the consequence would be, the double exposure of the misappropriations of the fund from which I was to be paid by the Treasury, and the necessity of Lord Althorp's defending his (surely not constitutional) act, in appointing the New Commission without a special authority from the House, and upon his own responsibility, to examine and pay from the money in hand, claims that were excluded from all participation in them both by the Conventions, and by the Act of 59th Geo. III. c. 31.; while I am a regularly registered claimant, whose claim a sum was set aside to meet, and which must, therefore, have been taken into consideration, when the second fund was allowed by France under the Convention of 1818; who am chargeable with no neglect, with no error, but have strictly complied with every thing the Conventions and the Act of Parliament prescribed; and who on the twelfth day after the Lords of the Privy Council had declared that their power was so circumscribed that they could give me no relief, brought my case before the House of Commons. My claim has been particularly excluded by Lord Althorp from the conusance of this New Commission, when about forty claimants, who have also had awards of rejection against them, have had their claims adjudicated upon by his New Commission!!! These claimants had forfeited all right of further prosecuting their claims, in consequence of not having appealed against the award of the Commissioners to the Privy Council, in the prescribed three months, and therefore must be taken to have voluntarily acquiesced in and submitted to the decision of the Commissioners;—whereas I, on the contrary, have complied with all that the Conventions and the Act of Parliament prescribed, and have not submitted, but have constantly protested (and have ever since followed up my protest) against the unfair adjudication of my claim, and demanded the most strict and severe examination of it. Lord Althorp, and Mr. Spring Rice, would have had to set themselves right in public opinion, for screening the perpetrators of the spoliations committed in these funds, by the stifling of the inquiry into my case, which will probably occasion the inquiry into those malpractiees. This accounts for the seemingly unnatural coalition that has taken place in this case, between parties opposed to each other on every other question.

As to Mr. Spring Rice, nothing can be more remarkable than the sentiments publicly avowed by him on this subject, before he expected to be a member of any Administration, compared with those he has exhibited since he got into the Treasury. If any one will read the debate recorded in the Mirror of Parliament, on the motion of Mr. Bernal, in Newland's case, Part XX, page 2134, June 23d, 1828, he will find that Mr. Spring Rice was then most deeidedly of opinion,—1st. that the supplementary claimants were not entitled to participate in this fund, as long as a regular registered claimant's claim remained unsettled; but that in case a surplus should remain, that then it could not be better employed than in distributing it among the supplementary claimants, (*among whom it may be observed, he had a most respectable friend*).

2dly. That if a surplus should remain, the House of Commons should have the disposal of it, and which would not be so unjust as to apply it for any other purpose than that for which the French Government intended it,—i. e. for "the satisfaction of the claims of "those persons who are fully entitled;—and, while any person "remains unpaid, the state had no right, either in policy, or in justice, "to appropriate it. If similar instances should again exist, with "what face could one apply to other countries for the indemnification "of private wrongs, when those countries have seen you, in this "case, apply this money to the necessities of the state, and not to "the remuneration of private individuals for whom it was given?"

3dly. Mr. Spring Rice was of opinion, "that no technical objection "should prevail against a claim, and that if it be sought to get rid of "a claim that was *founded in justice*, by a mere technical objection, he "thought THE HOUSE ought to interfere." But how different from these expressions of justice has the conduct been of Mr. Spring Rice, since he has become a Right Honourable Gentleman in Downing Street. It would have been far more honourable, if the Right Honourable Gentleman had acted in conformity with those maxims of justice he then so strongly recommended, but which it appears now, were mere empty words pronounced by him, not expressive of his feelings, if we may judge from his subsequent conduct, to which I will again allude. As far as regards the proceedings in the House of Commons this can be elucidated from the debates recorded in the Mirror of Parliament of May 13th and 22d, 1834, and July 14th, 1835.

A few days after the Committee for the examination of my case, had been appointed, a conversation took place in the House of Commons, between an Honourable Member and Lord Althorp, who advocated the interests of the supplementary claimants, and those of Convention No. 13, when his Lordship is reported to have replied, that he had done all in his power to prevent my getting a Committee, but that he had been fairly beaten,—that the supplementary claimants must therefore now defend the surplus sum, (that is to say the pretended surplus) themselves. Mr. Lloyd, the late Member for Stockport, and the Right Honourable Robert Grant, late Member for Finsbury, and a member of the Administration, presented, in consequence on the 13th of May, petitions from such claimants to the House of Commons, praying to be allowed to oppose me in the Committee. After some discussion, the petitions at the suggestion and recommendation of Mr. Spring Rice, were allowed to lie on the table, with his advice to move on them at a future day, to be allowed to oppose me in the Committee. The motion thereon, was accordingly made May 22d, and with the powerful and influential support of Lord Althorp and Mr. Spring Rice, the motion was carried—namely,—supplementary claimants, and claimants from Convention No. 13, who were particularly excluded by the conventions and the Act of Parliament from all participation in this identical fund, from which I, a regular registered claimant am to be paid, were allowed to oppose my claim in the Committee appointed solely to examine the validity of my claim, and if the grievances I complained of were

well founded! The arguments in support of the motion were grounded on false representations, and on the strength of Treasury Minutes, which allowed those excluded claims to be presented,—just as if Treasury Minutes were above solemn international treaties! The Chancellor of the Exchequer, and the Secretary of the Treasury, vigorously oppose the examination of the case of one claimant with all their power, and support another set of claimants who are not entitled according to international law, with all the power and influence their situations afford!!

Thirteen copies of documents were put in against me by my opponents in the committee, purporting to be copies of proceedings in France, without being legalized, or otherwise authenticated, not even so much as verified by the person who copied them. My counsel having, as a matter of course, objected to such writings being received as documents in evidence, my opponents required of the committee to grant them a delay of *two months*, in order to get these documents legalized; and the reason alleged for asking for so long a period was, that since Mr. Morier, the late Consul-general at Paris, had been appointed minister in Switzerland, there had been no English consul, or other authority at Paris, by whom documents could be legalized; and that Mr. Richardson, my opponents' agent, had applied to Lord Palmerston on the subject, and was still in communication with him; that his lordship had promised that some person should be appointed to legalize documents at Paris, but that the appointment would require some weeks to complete. Rather than consent to so ruinous a delay, I agreed to admit the documents without requiring any legalization, thereby abandoning the means of inquiring into their genuineness. I have since ascertained that Mr. Pickford, the present consul at Paris, who has (in the interim between the prorogation of Parliament in 1834, and the meeting of Parliament in 1835), legalized 69 documents for me—HAS BEEN UNINTERRUPTEDLY IN THE COURSE OF LEGALIZING DOCUMENTS AT PARIS, FROM THE VERY DAY ON WHICH MR. MORIER CEASED TO PERFORM THAT DUTY. But I have since sent to France for fresh and correct copies of the documents put in by my adversaries, and have had them regularly authenticated and legalized;—of two documents, however, I could obtain no copy;—it appears that those produced by my opponents must have been obtained surreptitiously, because the head of the office where those two documents are deposited, told my agent that he could not let him have a copy of them, they belonging to the secret department; and if they could only reasonably *suspect* the *employé* who had delivered the former ones, he would immediately be discharged. I applied to have this answer in writing and testified, and I have got it. I nevertheless shall not object to these unauthenticated documents remaining in evidence against me. Suspecting the existence of intermediate documents, which would give those produced against me quite a different effect, I have had search made for them, and have got them. A proceeding of a Mr. Meriacourt pretended to have been made on my behalf, on the authority of a full

power from me, was put in as evidence against me, by my opponents. I have applied for and received an authenticated, legalized declaration from this very Mr. Meriacourt, that I have never had any direct, or indirect communication with him, and that he never had a full power from me, but that he acted on the authority of a full power from a Mr. Desprez. I have never seen the man, and was totally ignorant of the circumstance.

My opponents having revived an old objection which had already been settled in my favour, namely, the nationality, I nevertheless thought it advisable to be prepared on the reply with additional evidence against it, and have got it. My opponents having also started a new objection, never made before, by the Commissioners, or the Privy Council, namely, the double allegiance, I was under the necessity to procure evidence to meet this new fallacy, and I have got it. At the time of the investigation before the committee, I was in possession of some documents which destroyed several of the revived and newly-started objections, some of which were authenticated in the usual manner, but my opponents refused to receive them as evidence, because they had not been legalized by an English authority abroad;—one of them was dated so far back as December 15th, 1779. Although one and all of the evidence they had put in against me, were devoid of legalization, or authentication of any kind, not being verified as being correct copies, even by the attestation of the party making them! I therefore put in mine *de bene esse*.

It appears that my opposing counsel did not agree in opinion; the junior counsel admitted my being entitled to indemnification, he only begged the Committee would give his clients the precedence, as they had a greater right according to his view of the case, in consequence of their being admitted to claim under the authority of Treasury Minutes! whereas their leading counsel on the contrary disputed my right *in toto*.

The following are the precise words of the Report of the Committee of the 8th of August 1834, to the House of Commons.—

"The Committee have proceeded in the execution of the duties "entrusted to them, and have in the prosecution of their inqui- "ries had a variety of documents laid before them, which they "have embodied in the minutes of evidence taken before them:—

"That in the course of their proceedings, it appeared to the "counsel for the Baron de Bode, that it would be necessary that "the Committee should adjourn, to afford time to procure certain "documents from abroad, rendered necessary in consequence of "points raised and evidence adduced on the part of the res- "pondents:—

"That your Committee did, in consequence of such application, "adjourn until the latest period to which the business of the "House would reasonably admit:—

"That your Committee are given to understand by the counsel "for both parties, that the inquiry is drawn nearly to a conclu-

" sion, and they confidently hope to be able to present a final " report on the case, at an early period of the next session, if the " House should be pleased to revive the Committee, a step which " they hardly need suggest to the House, is rendered necessary by " no fault of either party, and which is essential to prevent the " time, labour, and expense, which have been already bestowed on " the inquiry, from being totally useless."

To get the documents I put in *de bene esse*, legalized, and obtain the other additional evidence, I have been obliged to have an agent in France, who has been under the necessity of going twice to Alsace. I have been obliged to send to Germany, and even to Russia for that purpose. The procuring all this evidence to meet the new objections brought against me by my opponents, has put me to an expense of above 3000*l*. The necessity for this ruinous sacrifice arose from insinuations against me and my claim, made to parties, who had proposed to advance the necessary funds upon more reasonable terms, and which insinuations those parties stated they had received from the Treasury. These insinuations appeared also to have been industriously circulated, with the view of preventing me if possible from being in a situation to prosecute the inquiry.—The course thus pursued on the part of the Treasury gave rise to the following correspondence:—

"To the Lords Commissioners of His Majesty's Treasury.

"22, Lambeth Road, Southwark, Sep. 16th 1834.

" My Lords,

" Whatever may be your Lordships' opinion on the merits of " my claim, now under the consideration of a Committee of the " House of Commons, I am confident that your sense of justice " would restrain every attempt to prejudice or obstruct the fair in- " vestigation of it; and under that impression, I feel it to be my " duty—as well to your Lordships as to my immediate interests, " to draw your attention to the injurious reports which have gone " forth, and are said, and supposed to be sanctioned by the Trea- " sury.

" Your Lordships are probably aware of the pecuniary difficul- " ties under which I have long laboured and continue to labour, " and may easily conceive how much the alleviation of them must " depend on the opinion that may be entertained of the merits of " my case. Several persons to whom I have applied for loans, " and who have been favourably disposed to afford me the accom- " modation, have been deterred by being informed at the Treasury " that the claim was wholly destitute of foundation,—*that* " *Government had objections to it, which have not yet been stated,*— " that I am not the person I describe myself to be.

" It is not my purpose to question your Lordships' right to " estimate my pretensions, but I most respectfully submit that, " pending an inquiry, your opinion should not be interposed to " its prejudice; and that, as no opposition to my claim could be

"so fatal as that which would obstruct my procuring the means "of supporting it, reports of that tendency, must prove most "seriously injurious to my establishing it.

"With respect to the allegation, that Government have objec- "tions that have not yet been stated, I trust that, as the matter is "now under the consideration of a competent tribunal, that if your "Lordships really have objections, you will in candour, by now "stating them, afford me the opportunity of meeting them, that "I may not be subjected to further delay, after I may have "repelled those now before the Committee, as I have already "experienced eighteen years of anxiety and expense.

"As to the charge of my not being the person I describe myself "as being, though nothing can be more false or ridiculous, it has "an evil tendency: and I am willing to hope that your Lordships "will readily do all in your power to counteract it, and the other "reports, by kindly assuring me that you have not in any manner "authorized or sanctioned reports that so deeply affect my "interests and moral character; such an assurance from your "Lordships, will be regarded not merely as a measure of justice "to yourselves, but will be acknowledged with gratitude by.

"Your Lordships' most humble and obedient Servant.

"(Signed), De Bode."

"*Treasury Chambers, 22d September,* 1834.

"Sir,

"Having laid before the Lords Commissioners of His "Majesty's Treasury, your letter dated 16th instant, I have it in "command to acquaint you, that they do not admit that you are "entitled to call on them for any expression of opinion with "respect to the claims preferred by you *so long as such claims are "under the consideration of a Committee of the House of Commons,* "or to require that they should take any step whatever in your "case.

"I am, Sir,

"Your Obedient Servant,

(Signed), J. Stewart.

"The Baron de Bode, 22, Lambeth Road, Southwark."

"To the Lords Commissioners of His Majesty's Treasury.

"22, *Lambeth Road, Southwark, Sept. 24th,* 1834.

"My Lords

"I cannot in justice to myself, nor as it appears to me, "to your Lordships, leave unnoticed the letter I have received, "dated the 22d instant, from Mr. Stewart, by command of your "Lordships, in answer to my letter of the 16th.

"I readily admit that I am 'not entitled to call on your Lord- "ships for any expression of your opinion on my claims, *so long "as they are under the consideration of a Committee of the House of "Commons,*' and, as I am willing to believe that the principle

"which excludes me from the right to call for your opinion, "namely, the *pendency of the investigation,* would restrain your "communication of it to others, I felt it to be my duty to apprise "your Lordships that certain reports, most injurious to my "interests and moral character, had gone forth, and which, "proceeding from the Treasury, may have been supposed to have "the sanction of your Lordships' high authority; my object "therefore, was not to call upon your Lordships, to give me "your opinion on my claim, but to afford your Lordships the "opportunity of denying that you sanctioned the injurious "representations of it by others.

"Perhaps I may have gone too far in expressing the hope, that "if your Lordships had objections to my claim, that had not yet "been stated, you would in candour afford me now the oppor- "tunity of meeting them; but I trusted that your Lordships "would consider this expression of a hope, rather as a respectful "appeal to your candour, than as the assertion of a right.

"Having stated what was the object of my letter, allow me "respectfully to observe what may be, though I cannot suppose "intended to be, the effect of your Lordships' answer; it may be "concluded that you could not, or would not, deny your having "sanctioned the reports, that my claim was wholly destitute of "foundation, that Government had objections to it which had "not yet been stated, and that I was not the person I described "myself to be.

"The latter imputation your Lordships cannot but feel to be "of a most serious nature, and I should have thought that your "Lordships would have felt even eager to disclaim having in any "manner sanctioned or countenanced it, more especially as Mr. "Littleton had in the House of Commons spoken to his long "intimacy with me and my mother's family, and knowing as "your Lordships do, or might know, the distinguished reception "which I have experienced from most of the principal sovereigns "in Europe, and the various marks of honour conferred upon me "in my military character. Excuse the allusion, but there are "occasions, when egotism is not merely excusable, but a duty, "and such appears to me to be the nature of the present.

"I have the honour to be,

"Your Lordships'

"Most humble and obedient Servant,

(Signed), De Bode."

On the 29th of April, 1836, I was informed, from good authority, that a report was spreading that I was over in this country about the year 1808, 1809, or 1810, being then in the Russian service, and suspected to have been a Russian spy; that I gave a grand dinner to the principal individuals in office; but only so much was told to me as the Government wished me to know; the name of the hotel where this alleged dinner was given, is even I believe

mentioned; and it is added, that I was recognized as being the same individual when I came over here in 1816. It is true I have been in the Russian military service; I have fought her battles, which were also those of England, and I glory in it. But I flatter myself that the late Emperor Alexander, his Ministers and Generals whom I have had the honour to know personally, and under whom I have served, had too high an opinion of my spirit of independence, and my feelings and principles of honour as manifested by my general conduct, even to dream of making such a proposal to me as to be a diplomatic spy. The shortest answer to this calumny is, I have been five times in England. The first time I came to England was at the moment of my birth on the 23d of April, 1777, at Loxley Park, in the county of Stafford, the estate of my late uncle, Clement Kynnersley, Esq.; the second time, in 1782; the third time, in the spring of 1788, returning in November of the same year to Germany; in 1794, I went to Russia, and remained in Russia till December 1812, when I left it at the head of a regiment of lancers, of which I was the colonel, and which bore my name, as a reward, not for services performed in the despicable character of a spy, but for my general good and distinguished conduct. After the peace, in May 1816, I had the misfortune to return to my native land for the fourth time. I say misfortune, because I have here met with nothing but injustice, persecution, and calumny. On the 1st of March 1822, I left England for France, in search of the documents the Commissioners had required from me to substantiate my claim; and I returned to England in June of the same year, where I have resided ever since, a prey to misery and unequalled anxiety of mind. By this statement, and which can be proved to be correct, it is to be seen that from 1788 to 1816, I was not in England.

Even so recently as the 4th of May 1836, I was informed of reports most injurious and most distressing to my feelings and private character, which, like the rest, are without the least foundation; and on the 10th, I was informed by a gentleman who had only returned three weeks ago from Paris, that the late Mr. Mills, solicitor to the British Embassy at Paris, as also several Englishmen, told him that I was not the real Baron de Bode; and the same evening I was informed by another gentleman, that an M.P. (and whose name had been confided to me) had stated that it was reported that my documents were forged!!! It appears, however, that this foul slander has had no prejudicial effect upon the honourable member, as he intends voting for the re-appointment of the Committee to conclude the examination of my claim, believing that the Committee will find out if my documents are forged or not; but will all Members give me the same opportunity of justifying myself?—will not such atrocious assertions have a most fatal effect upon the minds of many?

This is the manner in which my private character has been assailed and calumniated; and that in such a dastardly way, that

it is difficult to bring it home to the parties. I am ready to meet any accusation; I court an investigation of my private character as a gentleman—of all my actions as a private individual, as much as I do of the merits of my claim.

July 14th, 1835, Mr. Gisborne moved for the re-appointment of a Select Committee to complete the examination of my claim, when the motion was most vehemently opposed by Mr. Spring Rice, the Chancellor of the Exchequer, and the Solicitor-General. By Mr. Spring Rice, because "I had slept on my case, and had never thought proper to bring it forward before the 18th of June; that it would be wrong to let me step in before the rightful claimants; that having been prosecuting my claim since 1816, I had not been prepared with all the necessary evidence to support my claim, and that therefore the Committee had closed the case; if I had any additional evidence, I ought to have brought it forward at the beginning of the session. The Solicitor-General pretended that the case had been regularly gone through, and adjudicated; and that the House of Commons was not to be made a Court of Appeal," and the motion was lost.

As to the first objection—Mr. Hill, the late Member for Hull, having lost his election, I applied to Mr. Serjeant Wilde, as soon as he was returned, *before the House met*, to move for a re-appointment of a Committee to complete the examination of my case. The House met on the 19th of February. Mr. Serjeant Wilde was of opinion that the motion should be postponed till the political struggle then going on was finally settled. On the 9th of March, I wrote to the learned Serjeant, desiring him not to delay it any longer, but to give notice that very evening of the motion for the earliest day possible. Mr. Serjeant Wilde, however, declined to go on with the case, in consequence of professional business of great importance which he had undertaken (the case of Small *v.* Attwood). Application was then made to Mr. Ewart, a Member of the Committee in the last session. In consequence of the unavoidable delays arising from a correspondence carried on between London and two circuits, on which my legal advisers then were, it was not before the 29th of March that it was agreed that notice of motion should be given for the 6th, 7th, 9th, or 10th of April; but Mr. Ewart thought that, in consequence of the tottering state of the then administration, it would be impossible to obtain attention so early. On the 8th of April, Sir Robert Peel resigned, and no business was transacted from that period till after the Easter holidays. Notice of motion was given for the 9th of June, as may be seen in the papers of April the 27th. That day was appointed, because it was supposed that the Committee could not meet for dispatch of business before the 18th of June, when Term would be over, and Counsel be able to

attend; the 9th of June being, however, no parliamentary day, the notice for the motion was, on the 12th of May, changed for the 18th of June. As for the other objections, they are one and all already, and I flatter myself satisfactorily, answered by the foregoing statements.

This opposition on the part of the Chancellor of the Exchequer was also at variance with the communication to me from the Lords of the Treasury, of September 22d 1834,—in which they say, as has already been seen, "that I am not entitled to call on "them for any expression of opinion with respect to the claims "preferred by me, so long *as such claims are under the considera-* "*tion of a Committee of the House of Commons.*"—My claims were then, at that period, looked upon by the Treasury as under the consideration of the House of Commons, although Parliament was prorogued, and therefore the re-appointment of the Committee looked upon as a matter of right,—a matter of course!—and so it was; nothing but the most unfounded assertions and misrepresentations could have misled the greater part of the Members present, to occasion by their vote the unparalleled injustice, which reflects on the national and legislative honour.

If any one will examine what Mr. Spring Rice has said on the debate in Newland's case, June 23d, 1828, and compare it to what he said on May 13th and 22nd 1834, and July 14th 1835,--he must be amazed at the inconsistency,—and hardly conceive the possibility of an individual expressing on the same subject, opinions so irreconcileable.

Mr. Gisborne being obliged to leave England on private business, Mr. O'Connell had now the kindness to take my case under his care, and after having given seven times notice, at last succeeded August the 19th 1835, in presenting a petition of mine to the House of Commons, in which I refuted the assertions on which the re-appointment of a Committee to complete the examination of my claims had been made, ending with the following prayer:—

"Your petitioner therefore most humbly prays that it may please "your Honourable House to take into its consideration the an- "swers of your petitioner to the unfounded statements and the mis- "representations which led to the vote of the 14th instant; and the "propriety and necessity of interference on the part of your "Honourable House in a case combining the dereliction of the "principles of justice, apparent upon the face of the award of a "tribunal constituted by the legislature, with a total omission to "adjudicate upon the principal part of the subject-matter brought "before that tribunal—a case of defects so obvious that if occur- "ring in a judgment of the ordinary tribunals of the country "would render such judgment not only reversible in error but "wholly inoperative and worthless, antecedently to any appeal to a "court of error,—and that your Honourable House will be pleased "to re-appoint a Select Committee to complete the examination

"of the facts and circumstances of the claim of your petitioner "upon the fund received from the French Government for in- "demnifying British subjects for the loss of property unduly "confiscated by French authority, and to report the same, with "their observations thereupon, to the House,

"And your petitioner will ever pray," &c. &c. &c.

"August 6th, 1835. (Signed) De Bode."

On January the 30th 1833, I memorialized the Treasury, and protested against any appointment of a new Commission that should exclude the examination of my claim by the same authority, and against the Treasury parting with any of the pretended surplus till my case, which was then before the House, had been finally settled. Lord Althorp nevertheless, appointed that new Commission, and excluded my claim from the benefit of it, although about forty other claims, similarly circumstanced as mine, against whom also awards of rejection had been made,—have been received.

July 9th 1833, I presented a petition to the House of Commons, "to the following effect,—"That a Commission has lately been "appointed by the Lords of his Majesty's Treasury, which has "published the following notice in the London Gazette, from No. "5, Whitehall Place, May 10th 1833,—'Notice is hereby given, "'that all persons interested in the distribution of the funds ap- "'propriated by the Treaties of 1815 and 1818, for liquidating "'the demands of British subjects upon the French Government, "'who may have omitted to prefer their claims before the late "'Commission, or whose claims having been preferred before the "'late Commission, were not adjudicated, in consequence of such "'claims having been sent in subsequent to the 5th of May 1826, "'will be permitted to bring their claims before the Commis- "'sioners recently appointed for the final adjudication of the "'French claims under the above Treaties, provided that the pre- "'vious delay shall be shewn to have arisen from circumstances "'over which the parties had no control, and provided also, "'that every claim so to be preferred shall be sent in to the pre- "'sent Commissioners within three months from the date of this "'Notice.'

"'That no persons are entitled to be considered as interested "'in the distribution of the funds appropriated by the conven- "'tions of 1815 and 1818, for liquidating the demands of British "'subjects upon the French Government,' except those who have "preferred their claims within the period prescribed by the con- "vention of 1815.

"That your Petitioner being a British subject, and having a "well founded claim and demand upon the French Government, "duly preferred and presented such claim and demand upon the "French Government, within the period prescribed by the Con- "vention of 1815.

"That although the claim and demand of your Petitioner were

"duly brought before the Commissioners for the liquidation of "the claims of British subjects upon France, no decision or "adjudication took place upon the right of your Petitioner to an "estate in remainder, expectant upon the death of his late father, "upon which point the bulk of your Petitioner's claim rested, "such right having been totally unnoticed, as well by the Com- "missioners as also by the Privy Council, to whom your Peti- "tioner appealed from the award of the Commissioners.

"That until the claim and demand of your Petitioner have "been examined and adjudicated upon, there can be no surplus "arising from the moneys paid by France, out of which the "persons who are by the above notice invited to present them- "selves as supplemental claimants, can be paid.

"That on Wednesday, the 15th of May last, a Petition was "presented by Mr. Hill, the honourable Member for Hull, on "the part of your Petitioner, praying for the appointment of a "Select Committee of your honourable House, to examine your "Petitioner's case, when by reason of the non-attendance of a "sufficient number of honourable members to constitute a House, "an adjournment took place, leaving the question as to the "appointment of a Select Committee undecided.

"That the notice of motion for the appointment of such Select "Committee was renewed for Wednesday the 12th of June, when "in consequence of orders being taken before motions, your "honourable House was occupied until a late hour with import- "ant public business.

"That the notice of motion being renewed for Thursday, the "27th of June, the House was counted out during the discussion "of a motion which stood earlier on the list.

"That your Petitioner fears that from the unavoidable absence "of Mr. Hill upon the circuit, the motion for the appointment "of a Select Committee cannot be again brought forward during "the present session of Parliament.

"That your Petitioner, therefore, most humbly prays that your "Honourable House will be pleased to take such steps as in "your wisdom shall appear to be expedient, in order to "prevent such funds, or any part thereof, from being distri- "buted or parted with until your Petitioner's case, now "before your Honourable House, has been by your Honour- "able House determined.

"And your Petitioner will, as in duty bound, for ever pray, &c.

"July 5th, 1833. (Signed) DE BODE."

Mr. Spring Rice, December 9th, 1835, as if by way of defiance, having requested a friend of mine to tell me that the surplus fund would be completely distributed before the meeting of Parliament—I sent the following memorial to the Lords of his Majesty's Treasury.

"The Memorial of Clement Joseph Philip Pen, Baron de Bode,
"a Baron of the Holy Roman Empire, a Knight of several
"Orders, and a natural born British subject.

"Sheweth,

"That the Select Committee appointed to examine into the "facts and circumstances of the claim of your Memorialist, "*upon the funds received from the French Government* for in- "demnifying British subjects for the loss of property unduly "confiscated by French authority, and to report the same with "their observations thereupon to the House; did, on the 8th of "August, 1834, make their Report, which they concluded by "stating.—'That your Committee are given to understand by the "'counsel of both parties, that the inquiry is drawn nearly to a "'conclusion, and they confidently hope to be able to procure "'a final report on the case at an early period of the next session, "'if the House should be pleased to revive the Committee; a "'step which, they hardly need suggest to the House, is rendered "'necessary by no fault of either party, and which is essential "'to prevent the time, labour, and expense, which have already "'been bestowed on the inquiry from being totally useless.'

"That on the 14th July last, Mr. Gisborne moved for the "re-appointment of the Committee, but his motion was encoun- "tered by the most unfounded objections, as will appear from "your Memorialist's Petition to the Honourable House, presented "by Mr. O'Connell on the 19th August last; a copy of which "your Memorialist herewith encloses, and in which he has examined "and has, he submits, completely refuted every objection urged "against the revival of the Committee, and accounted for the "delay imputed to him in not applying to the House for such "purpose at an earlier period of the session, so far at least as to "shew that no blame attaches to him in that respect.

"That Mr. O'Connell, at the same time that he presented the "Petition of your Memorialist, gave notice that he would next "session move for the revival of the Select Committee, and such "his notice now stands No. 79 in the order book of the Honour- "able House.

"That your Memorialist fully relying on the good faith of "Government, concluded that nothing would in the mean time "be done that might in any degree operate injuriously in the "discussion of Mr. O'Connell's motion, or endanger your Memo- "rialist making his claim available in the event of his establishing "it, was much surprised to receive an authorised communication "from the Chancellor of the Exchequer, that the fund now in "the hands of Government, and primarily applicable to the claim "of your Memorialist, in the event of his establishing it, would "be distributed before the meeting of Parliament, and as your "Memorialist conceives, amongst claimants, whose claims can "only attach to any surplus of the fund, after satisfying the claim "of your Memorialist.

"In asserting his priority of claim, your Memorialist trusts "that he shall not be considered as adverse to the claims of others, "which though not within the terms of the treaty, as is the claim "of your Memorialist, may be morally just, and he is willing to "hope that the communication he has received from the Chancellor "of the Exchequer was intended to afford him the opportunity of "distinctly submitting to your Lordships, that the distribution "of the fund ought to be suspended until his claim is disposed of, "or duly provided for.

"Your Memorialist, therefore, humbly prays that your Lord-"ships will not allow of any application of the funds that may "prejudice the discussion of Mr. O'Connell's motion, or your "Memorialist's priority of charge upon the fund, in the event of "his establishing his claim upon it.

"And your Memorialist shall ever pray, &c.

(Signed), De Bode.

"December 16th, 1835."

ANSWER OF THE LORDS OF THE TREASURY TO THE ABOVE MEMORIAL.

"Sir,

"In answer to your Memorial of the 16th instant, i am "commanded by the Lords Commissioners of His Majesty's Treasury "to acquaint you, that their Lordships do not admit that the fund "to which you refer is primarily applicable to the claim made by you, "or that you have any claim whatever upon any part of it; and my "Lords cannot suspend any of their directions which they have issued "relating to the application of that fund.

"I am, Sir,

"Your obedient Servant,

(Signed), "T. Bane.

"Treasury Chambers, 29th December, 1835.

"The Baron de Bode."

REPLY TO THE FOREGOING.

"*December 31st*, 1835.

"My Lords,

"I have received yesterday your Lordships' answer to my "Memorial of the 16th instant, and beg to assure your Lordships "that it was not my intention to call upon you to admit that I had "any claim on any part of the fund referred to, or to admit the pri-

"ority of such claim over that of others; all that I intended was "respectfully to submit to your Lordships the justice of your not "allowing of any application of the fund that might prejudice Mr. "O'Connell's motion for the revival of the Committee, or any priority "of charge upon it, in the event of my ultimately establishing my "claim. If I have miscarried in my purpose of so limiting my appli- "cation, I have to apologise to your Lordships for it; and in the "confident hope that the directions you have issued for the apportion "of the fund are such as a due regard to the pending of Mr. O'Con- "nell's notice of motion, and the possible result of it in my favour "would prescribe,

"I have the honour to be, with due respect,
"Your Lordships'
"Obedient humble Servant,
(Signed), "De Bode.

"To the Lords Commissioners of His Majesty's Treasury."

ANSWER OF THE LORDS OF THE TREASURY TO THE ABOVE.

"Sir,

"In answer to your further application of the 31st ultimo, "respecting your claims, I am commanded by the Lords Commissioners "of His Majesty's Treasury to acquaint you, that their Lordships "having already informed you, that they cannot suspend the operation "of any of the directions given by them with respect to the fund to "which you refer, my Lords have no other reply to make to this "communication.

"I am, Sir,
"Your obedient Servant,
(Signed), "G. Stanley.

"Treasury Chambers, 8th January, 1836.
"The Baron de Bode."

Letter to Mr. Spring Rice, the Chancellor of the Exchequer, of January 26th, 1836,—delivered the same day.

22, *Lambeth Road, Southwark, Jan. 26th,* 1836.

"Sir,

"In addressing you, it is not my purpose to deprecate that "strenuous and determined opposition with which you have announced "you intend to meet Mr. O'Connell's motion on my behalf, though I "cannot but regret that one charged with the duty of deciding "dispassionately upon it, should enter upon the discussion in a state "of mind so prejudiced against it. But though it is not my purpose

" to deprecate your opposition, it certainly is not my purpose to pro-
" voke or defy it. The course you have to pursue must depend on
" your own sense of honour and justice, and I am still willing
" to hope that its influence may induce that line of conduct which the
" duty of a Member of the House of Commons constitutionally
" prescribes.

" Under this impression, I will not observe on the more than
" inconvenience that I experienced during the sitting of the late
" Committee, from the non-production of three documents which
" were at one time in a bundle of papers, endorsed " Papers in the
" Baron de Bode's case," and which three documents were traced into
" your possession, and which you stated you had sent to the then
" Attorney-General, Sir William Horne, but which he said he had
" never received. I may be thought to have attached more importance
" to those documents than really belongs to them, but I think that I
" am warranted in attaching some importance to them, if merely from
" the circumstance of your sending them to the Attorney-General;
" and they certainly have not since lost any of their value, as they
" would additionally show how little reliance ought to be had on the
" Award of the Commissioners, which some of the objectors to my
" claim profess to consider as conclusive;—I trust, therefore, that
" though I could not procure the production of these documents under
" the order of the Committee, you will make every personal and offi-
" cial exertion to procure me a copy of them with the least possible
" delay.

" Having adverted to the objection relied on by some of my oppo-
" nents, that the Award of the Commissioners is final and conclusive, I
" would ask whether such is their opinion, however vicious the prin-
" ciple, or palpably erroneous the statements or reasoning upon which
" the Award is founded. If their answer is in the affirmative, and
" the House of Commons can be prevailed on to accede to such
" doctrine, I must submit; but if, on the contrary, the House should
" indignantly repudiate such doctrine, then I am prepared to show
" that the Award ought not to prevail. That the late House of
" Commons did not accede to such doctrine, is evident from the
" appointment of the late Committee, and that the late Committee
" did not accede to it, is clear from their having recommended the
" renewal of a Committee; and that the Lords of the Treasury in
" 1827, did not accede to it, appears from their having called upon
" the Commissioners to state the grounds of their Award—a call
" which they certainly would not have made, had they considered
" those in the Award itself as satisfactory, or however unsatisfactory,
" as conclusive.

" I will not observe on the circumstances which may be considered
" as peculiar to the claims of certain British subjects upon the fund in
" question, namely, that it was confided to the administration of the
" Government of England, as a Trust Fund for compensation to
" British subjects, whose property had been unduly confiscated by the
" revolutionary authorities of France.

"The Government of England might properly refer the investiga-
"tion of claims to Commissioners, but it could not relieve itself from
"the responsibility that attached to its character as trustee. It might
"justify its adoption of the judgment of the Commissioners, in the
"absence of all apparent objection to it, but it could not, without
"moral guilt, proceed upon it against its own conviction of its
"injustice.

"The framers of the Act of Parliament appear to have been aware
"of this, and therefore required the approval of the award by the
"crown,—even when the award has been affirmed by the Privy
"Council—for that approval Ministers must be responsible, and to
"whom, if not to the House of Commons?

"In my petition presented by Mr. O'Connell, I have addressed
"myself to the several objections that were urged against the revival
"of the Committee on Mr. Gisborne's motion, and I trust I have
"at least materially weakened, if not removed them; but if you
"should still consider any of the objections entitled to prevail, allow
"me to express the hope that your candour will induce you to apprise
"me of them, and that you will accept of my assurance that I will
"in the same spirit of candour apply myself to the yielding to, or
"repelling of them,—a full and fair discussion being all I ask.

"I have the honour to remain, Sir,

"Your most obedient humble servant,

(Signed), "De Bode.

"To the Right Honourable Mr. Spring Rice, &c. &c. &c."

To this letter no answer has been received.

I think I have most clearly shewn that my case has not been regularly gone through, that it has not been properly adjudicated. It is clear, that although the Government has thought fit, and properly so, to apply to Parliament to appoint Commissioners to investigate the French claims, that it cannot notwithstanding this, relieve itself from the responsibility that attaches to its character as a Trustee. As a proof, the Act of Parliament requires the approval of the Crown, even when the award has been affirmed by the members of the Privy Council—*and Ministers surely are responsible for that approval to the House of Commons*—and as to the jurisdiction of the House, it will not be contended that the award of the Commissioners, however palpably vicious in its principle, or evidently erroneous in its statements or reasoning it may be, ought to be considered as conclusive. The late House of Commons, in appointing a Committee to inquire into the facts and circumstances of my claim, at least has not thought so. The question of jurisdiction of the House cannot therefore be raised, as the finality of the award was not in respect of the judgment of the Commissioners, but in respect of the King's approval of it; and as the royal approval is to be considered the act of the responsible Ministers, the House of Commons has a right of examining the propriety of it. The House has already taken cognizance of my claim; the only question, therefore, is, whether that inquiry shall be resumed,

which inquiry, circumstances over which I had no control, prevented from being completed in the session of 1834. And I think I have also clearly shewn that I have a prior claim upon that part of the fund paid by the French government under Convention 1818, to the British Government as a Trustee, for which the Treasury has yet to account, to that of the supplementary claimants and those of Convention No. 13,—the first who are particularly excluded by the Conventions of 1815, and 1818, from participating in this fund, and the latter who have received every shilling that France allowed on their account, and who have only been admitted to participate in this fund under Treasury Minutes,—when my claim comes under the General Law, which is above Treasury Minutes.

I have also shewn that it was no fault of mine that my case was not completed before the Committee in the session of 1834; that I had no control over the different circumstances that occasioned the delay, namely: 1st, That after the House of Commons had granted the Committee, it was prevented from meeting for twenty-three days, in consequence of the motion announced by Mr. Lloyd, to admit supplementary claimants in the Committee to oppose my claim; 2ndly, That five of the days appointed for the meeting of the Committee, no business was proceeded in, none of the Members having attended; 3rdly, That in consequence of the points raised in opposition to the claim, and the refusal of the opposing party to admit the evidence against such objections, it not being legalised by an English authority abroad, it was put in *de bene esse*—Counsel represented also, that in consequence of the objections so raised, it would be necessary to afford time to procure certain documents from abroad; and 4thly, That very great expense has been incurred in order to obtain those documents (about 3000*l.*).

I have further to observe that an end ought to be made of this case, and that this cannot be done without a due examination of it. As yet the whole case has not been gone through; the evidence in refutation of the case set up in opposition to my claims has not been examined, and the reply has not as yet been made. I feel so confident of the justice and strength of my claim that I will not object, but I challenge the Law Advisers of the Crown to oppose me in the Committee. The only mode in which I can be defeated, is that which has hitherto been pursued against me, namely, *by stifling the inquiry.* I beg also to observe that one of my opposing counsel, admitted himself before the late Committee, that I had claims which deserved to be considered—begging the Committee only to postpone my claims to those of his clients, because in his opinion they had a stronger claim, having been admitted under Treasury Minutes.—To refuse the re-appointment of a Committee, would be postponing my claim with a vengeance.

I must further, and lastly, observe, that it has been the general practice of the Treasury, through the medium of the law advisers of the Crown, to discuss particular points in my case before the House; which is most unfair; as by such a mode of proceeding, a party having the best possible case, upon the real merits, may be borne down by

ex parte statements made by the Law Advisers of the Crown, while I and the professional gentlemen, who, influenced only by their deep conviction of the justice of my claim, have hitherto afforded me their assistance, not having seats in the House, are debarred of the opportunity of exposing the fallacy of such statements, and the Members by whom my claim is supported in the House not having leisure to make themselves sufficiently masters of the details of the case, may by their silence be supposed to acquiesce in them.

I beg again to submit to Honourable Members, that this is not a *party* question, and it ought not to be allowed to be made a *Government or a Treasury question;* but that it is the case of a long-injured and deeply suffering British subject.

Blackstone says, "There can be no wrong without a remedy—no injury without a redress." For eighteen years unfortunately, I have found that this theory is not borne out by fact—unless I interpret redress and remedy to signify in my case, despair and death.

DE BODE.

June 14*th*, 1836.

SHORT OUTLINE

OF THE

CASE OF THE BARON DE BODE.

Clement Joseph Philip Pen, Baron de Bode, was born at Loxley Park, in the county of Stafford, the residence of his uncle and godfather, Clement Kynnersley, Esq., on the 23d of April, 1777, and was baptized at Uttoxeter, in the same county, on the 20th of May. His father, Charles Augustus Lewis Frederick de Bode, a Baron of the Holy Roman Empire, who commanded a German regiment in the service of France, had, in 1776, married the daughter of Thomas Kynnersley, Esq., of Loxley Park.

The property for the loss of which indemnification is claimed by the Baron under the treaties and conventions made with France in 1814, 1815, and 1818, is the Lordship of Sultz-am-Staaten (called in French, Sultz-sous-Forêts), situate in Lower Alsace (now the department of the Lower Rhine). Alsace was formerly part of the German Empire; independently of which, a junior branch of the House of Austria held the Landgraviate of Higher and Lower Alsace. The Lordship of Sultz-am-Staaten, otherwise called the Barony of Fleckenstein, consisted of several *male fiefs*, comprising the town of Sultz and five villages, and was held under the protection and patronage of the Elector of Cologne; and though locally situate within the Landgraviate of Lower Alsace, was wholly independent of the Landgrave, acknowledging no superior but the Emperor as head of the empire, of which the Landgraviate of the Alsaces and the Barony of Fleckenstien were *co-estates;* the relation in which the Barony of Fleckenstein stood to the Electors of Cologne, not interfering with the immediate tenure under the empire.

At the Treaty of Munster, or Peace of Westphalia, in 1648, the Landgraviate of the Alsaces was ceded by the House of Austria to Lewis XIV., who paid an indemnification of 3,000,000 francs to Archduke Ferdinand, the reigning Landgrave; and to prevent the King of France from thereby becoming a co-estate of the empire, the Landgraviate was severed from the empire, and transferred in sovereignty to France. But to avoid any inference from this cession which should affect the rights of the Immediate nobility holding lands within the district of Lower Alsâce, it was arranged that the relation in which the Barons of Fleckenstein and others stood towards the German Empire should remain as before. And accordingly, by article 87* of that Treaty, it is therefore stipulated,† "That the Most

* In some editions called 92.

† The terms of this Treaty are so clear and precise, that I insert them here in the original French :—" Que le Roi Très Chrêtien soit tenu de laisser non seulement les Evêques de Strasbourg et de Basle, et la ville de Strasbourg : mais aussi les autres états ou ordres, qui sont dans l'une et l'autre Alsace, immédiatement soumis à l'Empire Romain les Abbés de Murbach et de Luders, l'Abbesse d'Andlaw, Munster, au Val St. Gregoire de l'ordie de S. Benoit, les Palatins de Luzelstein, les Comtes et Barons de Hanau, Fleckenstein, Oberstein, et la Noblesse de toute l'Alsace : item, les dites dix villes impériales qui reconnoissent

Christian King shall be bound to leave not only the Bishops of Strasburgh and Basle, with the City of Strasburgh, but also the other States and Orders which are in the two Alsaces, subject to the Roman Empire, the Abbots of Murbach and of Luders, the Abbess of Andlaw, the Monastery of Val St. Gregory of the Order of St. Benedict, the Palatines of Luzelstein, the Counts and Barons of Hanau, *Fleckenstein*, Oberstein, and *the Nobility of the whole of Lower Alsace*; item, the said Ten Imperial Cities which are under the Prefecture of Hagenau, in the free enjoyment of the Immediateness towards the Roman Empire which they have hitherto possessed; so that he cannot pretend *any Royal Superiority over them*, but shall rest contented with the rights, such as they are, which appertained to the House of Austria, and which by this Treaty of Pacification are yielded to the Crown of France. In such a manner, nevertheless, that by the present declaration nothing is intended that shall derogate from the sovereign seignory here above ceded (*i. e.* derogate from the right to hold the *Landgraviate* of Alsace discharged from the rights of sovereignty which the Empire possessed over the *Landgraves*).

England was not originally a party to the Treaty of Munster, but it became indirectly a party to that treaty, by being in 1679 a party to the Treaty of Nimeguen, which was negotiated under the mediation of Charles II., and in which the Treaty of Munster was expressly confirmed, as fully, and in the same manner as if the articles of that treaty had been re-inserted verbatim in the Treaty of Nimeguen.*

The military occupation of the city of Strasburgh in 1680, by Louis XIV. in a time of profound peace, is well known. This open violation of the Treaty of Munster became a ground of war between France and the German Empire. But the Treaty of Ryswick, in 1697, which confirmed the Treaty of Munster in all other respects, confirmed the possession of Strasburgh by France.

In February, 1697, an attack was made upon the privileges of the Alsatian noblesse by a royal declaration, enabling the noblesse to sell and alien their estates. This declaration was recalled in June in the same year, upon a remonstrance on the part of the noblesse, insisting that such a declaration was an invasion of their rights granted in the Treaty of Munster, by a royal edict reciting such remonstrance.

In 1720, the male line of the Barons of Fleckenstein becoming extinct, the Cardinal de Rohan, Bishop of Strasburgh, obtained from the Elector of Cologne the investiture of the Lordship of Sultz, for his nephew the Prince de Rohan, on whom Louis XV. also conferred other fiefs held by the Barons of Fleckenstein, of which the Landgraves of Alsace, and afterwards by the Treaty of Munster, the Kings of France, were patrons.

In 1786, the male line of the Prince de Rohan became extinct, and in 1787 the late Baron Charles A. L. F. de Bode obtained from the Elector of Cologne, an appointment to the Lordship of Sultz, which was not entirely gratuitous on the part of the Elector, inasmuch as a large sum, including property belonging to the Baroness and her relations in England, was received by the Elector and his officers as a douceur for this appointment.

la préfecture d'Haguenau,—dans cette liberti de possession d'immédiatelé à légard de l'Empire Romain dont elles ont joui jus-qu' ici, de manière qu'il ne puisse ci-après prétendre sur eux aucune souveraineté Royale; mais qu'il demeure content des droits quelconques, qui appertenoient à la maison d'Autriche, et qui par ce Traité de pacification sont cédés à la couronne de France; de sorte toutefois que par cette présente Déclaration on n'entende point qu'il soit rien ôté de tout ce droit de suprême Seigneurie qui a été ci-dessus accordé.

* England was also a party to the Treaties of Ryswick and of Utrecht, in both of which the Treaty of Munster was again expressly confirmed.

In 1788, the late Baron received the formal investiture of these fiefs jointly with his son the present claimant.

In December, 1789, the Assemblée Nationale decreed the abolition of feudal and seignorial rights, but with an express reservation of an indemnity for the rights of the Alsatian nobility, guaranteed to them by treaties. The right to such an indemnity was again recognised by the decrees of the 28th October, 1790; 19th June, 1791; and 14th of January, 1792.

In 1791, many landholders transferred their estates to their heirs, both as a protection from any forfeiture which they might themselves incur, and to obviate the effect of any decrees requiring an equal distribution of property upon death. With these views, the claimant's father, in the spring of 1791, executed a formal cession of all his interest in the property in question to the claimant.† This took place in the Town Hall of Sultz, in the presence of a notary, and of the municipality and constituted authorites, and of the assembled burghers and vassals.

From this period the property was administered in the son's name by the father, until October 1793, when the claimant, with his father, mother, and second brother, were obliged to fly from France to save their lives. He was then (10th October, 1793), put on the list of emigrants for the departure of the Lower Rhine; foreigners domiciled in France, the moment they left their domicile, being put on the list of emigrants in the same manner as native French subjects, without the least distinction in respect of forfeiture of *property*. The insertion of a name in that list constituted the act of confiscation.

The late Baron died in Russia, in August 1797.

Under the Convention of Paris, of 20th November, 1815, British subjects, whose property, movable or immovable, within the limits of France as it existed in 1792, had been confiscated after January, 1793, were to be indemnified by the French Government; three months being allowed for British subjects residing in Europe, to prefer their claims under such Convention.

The British Commissioners of Liquidation of Claims on France were appointed on the 27th December, 1815, and arrived in Paris some time in January, 1816, and had their first official communication with the French Commissioners on the 14th February, 1816. On the 13th January, 1816, the Baron presented a memorial of his claim (in which the property was described as a MALE GERMAN FIEF enclavé in Lower Alsace, and situate between Weisemburg and Hagenau, not held mediately or immediately from the crown of France, but from the Elector of Cologne), to be forwarded by the Duke de Richelieu, the Prime Minister, and Minister for Foreign Affairs, to the Commission of Liquidation; no particular mode or channel for the presentment of claims having been prescribed by the Convention. This memorial was on the 9th February laid before the Duke de Richelieu, who formally acknowledged the receipt of the claim on that day, but omitted to forward it to the Commissioners, under an impression that as the claimant's father was a German, he was himself not qualified to claim as a British subject. Much delay was occasioned by this mistake of the Duke de Richelieu, and by a misapprehension still more extraordinary on the part of the British members of the mixed Commission, who, as it afterwards appeared, though they presented the Baron's claim to the French Commission, yet, from a doubt entertained by them, whether Alsace formed

† The claimant was well known as an Englishman, and his register of baptism had been inserted in the registry book of baptisms of the parish church of St. Peter and St. Paul, at Sultz, in 1788. England was at this time highly popular with the revolutionary party in France.

part of the French territory in 1792, for a long time abstained from insisting upon the Baron's name being inscribed in the register of claimants.

By a subsequent Convention between Great Britain and France in 1818, the *unlimited* liability of France to indemnify British subjects, was commuted for an absolute and final payment of 3,000,000 francs *rentes*, in addition to 3,500,000 already advanced by France on the footing of the Convention of 1815; the whole payment by France constituting a capital of 130,000,000 francs, or 5,200,000*l.* sterling.

By this new Convention, France was discharged, and the settlement with the claimants, except those who had been already paid out of the first sum advanced by France, was thrown upon, and undertaken by the British Government. The mixed Commission of liquidation, which had been sitting at Paris under the Convention of 1815, being now at an end, an Act passed in May 1819, (59 Geo. 3, cap. 31.), which after reciting that the Commissioners under the mixed Commission had "caused to be inscribed in a register, the name of ALL the claimants, who presented themselves within the period prescribed by the Convention," erected a new British Commission of Liquidation, Arbitration and Award, who are authorized to adjudicate upon the claims, subject to an appeal to the Privy Council, where judgment is directed to be final.

The Baron lost no time in presenting himself to this new tribunal; but it was not until 31st August 1821, that he obtained from the Commissioners a statement of the facts which they required him to establish; and the Baron's means being entirely exhausted, by this nearly six years' delay, no part of which was occasioned by any default on his part, it was not until February 1822, that he could raise the necessary funds to set out for Alsace, to procure the documents which the Commissioners required. In the following April, the Commissioners made their award of rejection before they had received all the documents which they had required, many of which were lying for legalization at Paris—as they were informed before they made their rash and ill-considered award, founded upon reasons palpably erroneous *ex facie* (some of which were abandoned by themselves before the Privy Council) and *embracing only a small part* of the claim presented by the Baron.

This award was confirmed by the Privy Council on grounds inconsistent with those on which the Commons had proceeded, and equally unwarranted by the law and facts of the case.

A petition for re-hearing was rejected, on the ground, that by the express provision of the Act of 59 Geo. 3, c. 31, the former decision having been laid before the King and approved, was rendered final, such approval having been obtained within twenty-three days of the hearing. This haste was wholly unprecedented,* as shewn *suprà*, page ; but it was necessary, in order to *insure* the rejection of any petition for a re-hearing.

* In the case of Boyd, Ker, and Co., and others, *heard on the same day* with that of the Baron, the decree of the Privy Council confirming an award of rejection, was not laid before the King for approval for more than fifteen months, and it was not till after the expiration of that period, that notice of a petition for a re-hearing was given. That case was re-heard on the very same day on which the Privy Council refused to re-hear the Baron's case, upon the ground of the want of jurisdiction thus occasioned.

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